

## **POOR LEGIBILITY**

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January 9, 1992

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John Lyons, Esq.  
United States Environmental Protection Agency  
75 Hawthorne Street - 16th Floor  
San Francisco, California 94105

Re: United Heckathorn Site

Dear John:

In response to the message you left on my voicemail, I am providing you with the following information on behalf of the Levin entities. I have enclosed excerpts from depositions which I think are responsive to your questions. Of course, I would be happy to provide you with the full nine transcripts if you believe that would be helpful, as well as any additional information that will assist you and others at the EPA in evaluating Levin's recent good faith offer regarding the Remedial Investigation and Feasibility Study.

1. Richard Levin's Knowledge About The United Heckathorn Site.

Prior to purchase of the site in 1981, Richard Levin's only contact with the United Heckathorn site was in connection with Levin Metals Corporation's ("LMC") shipments of scrap metal by Parr Richmond Terminal Corporation from the docks at the site. (Richard Levin deposition transcript Vol. I at 22-25; hereafter "Levin".) According to the vessel Jumbo Book, a register of shipping maintained by Parr Richmond Terminal Corporation, Levin



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Metals shipped from the site only during the period of April 12, 1966 through 1974. Exhibit 1 attached to this letter. By the date of LMC's first shipment from the site, all pesticide activities had ceased and the last successor Heckathorn entity had declared bankruptcy.

During Richard Levin's visits to the site in the late-1960's, he never saw a facility where they were processing insecticides. (Levin, Vol. II at 44-45.) Richard Levin had no knowledge that the property was used for any purpose other than as a shipping terminal. (Levin, Vol. I at 145.) During those visits, he was not in the vicinity of the area where Heckathorn processed DDT, but rather on the Southern end of the property where Berths A and B are located. (Id.) He was also unaware of the property lines so he did not have any reason to believe that any adjacent buildings were part of the same property where shipping took place. (Id.)

Having been present at the site during the late 1960's, Richard Levin was familiar with PRTC's facilities as a shipping terminal. In addition, he received a brochure from Peter Rothschild, Levin Metals' broker, who in turn had received it from Fred Parr Cox which confirmed the equipment on the property. (Levin, Vol. II at 7-8.)

Richard Levin personally inspected the property either several weeks after the verbal agreement to sell the property or just prior to the closing. (Levin, Vol. II at 39-40.) During Richard Levin's visit to the property with John Parr Cox, Cox did not refer to the fact that there were DDT formulating facilities on the site. (Levin, Vol. II at 42-44.) During this tour of the site, they discussed "inconsequential things" while the lawyers inventoried the equipment. John Parr Cox did not disclose any contamination on the site, nor even the existence of the Heckathorn building. (John Parr Cox at 129-133.)

## 2. Sales Negotiations And Representations.

John Parr Cox designated his brother Fred Parr Cox to act as broker in connection with the property. Accordingly, all of the discussions were between Fred Parr Cox and, principally, Peter Rothschild, the broker for the Levin entities.

In approximately 1979, Peter Rothschild first learned that PRTC was interested in selling the property. (Rothschild at 63-64.) Shortly after hearing of the interest in sale, Peter Rothschild took a walk through the PRT property. (Rothschild at 57-59.) John Cox had told him that the PRT property had been in

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the family and has always been a port terminal. (Id. at 210-211.) When he asked about leases on the property, Fred Parr Cox told him only about current month-to-month tenancies which were all port oriented. (Id. at 215.)

At that time, John Parr Cox provided Rothschild with a sales brochure. Exhibit 2 to this letter. The brochure states several items exclusively relating to terminal operations:

1. "Berthing areas are dredged to -34 feet at low water."
2. "[B]ehind the wharf area the company owns and operates considerable acreage available for long term storage."
3. "The wharf at Berth B is 1,200 ft. long."
4. "The Terminal is completely adapted for dry bulk cargo."

There was no reference to any prior use for any purpose other than shipping, and in particular no reference to any use as a pesticide formulation facility.

Fred Parr Cox gave the brochure to Rothschild, as well as to other potential buyers. (Fred Parr Cox at 106.) At a meeting, Peter Rothschild asked John Parr Cox if he had "any more maps or literature or anything else and I said 'No'." (John Parr Cox at 243-244.) Levin relied on the sales brochure. (Levin, Vol. II at 7-8.)

Prior to the Levin sales negotiations, John Parr Cox named his brother Fred Parr Cox to act as PRTC's broker. In 1980, when Levin indicated an interest in possibly purchasing the property, Rothschild met with Fred Parr Cox. He received additional brochures about the property, but was not told anything about PRT's prior tenants, that Heckathorn had been a tenant at the site, or that any company had processed chemicals at the site. (Rothschild at 75-77.)

Prior to preparing the final offer that was accepted, Levin indicated to Rothschild that he wanted the property looked over. Accordingly, Rothschild made arrangements with Fred Parr Cox to tour the property. (Id. at 113-114.)

During the course of those negotiations for the final offer, Rothschild asked Fred Parr Cox if Fred knew there was anything wrong with the property, anything the buyer should know about. Fred said: "No, except the dock is old." (Id. at 120.)

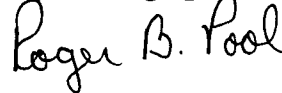
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Shortly thereafter, when Rothschild called Fred Parr Cox indicating he was going to convey an offer, he asked if there was anything else besides a damaged dock that Levin should be made aware of. Fred said not that he was aware of. (Id. at 132-133.) Fred Parr Cox testified that he knew of none of the problems with the property, and acknowledged that he was obligated to disclose problems regarding the property. In particular, if he had known of the Parr Richmond Terminal meeting with the Abandoned Site Project, he would have disclosed that information; if he had known of the test results produced as part of the Abandoned Site Project he would have had them analyzed to determine their significance; furthermore if he had known there was the possibility of an EPA clean-up, he would have disclosed that fact. (Fred Parr Cox at 111-114, 117.) Fred Parr Cox testified that Rothschild may have asked about problems with the property, "but I think there was no problem, as far as Peter Rothschild or I knew about the property." (Fred Parr Cox at 193-194.)

Rothschild also visited the property sometime between February 20, 1981 and May 1, 1981 when he took some appraisers from a bank out to look at the property regarding a loan. (Rothschild at 140.) Thereafter, he walked the PRT property shortly after March 2, 1981 with a representative from LMC's lawyer's office and conducted an inventory. (Id. at 153-154.)

Rothschild also assisted in obtaining the title report prior to the closing of the sale. Nothing in the report related to any prior use of the property for any purpose except shipping. See Exhibit 3 to this letter.

Very truly yours,



Roger B. Pool

RBP:jdft  
04472\92010801

cc: Keith Howard, Esq.

FARELLA, BRAUN & MARTEL

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bcc: Mr. William Benak  
Gerald Marcus, Esq.

22  
 VESSEL: Mr. C. W. [unclear] ARR: 4/12/66 DRAFT: 5:50 AM TUG: [unclear] LOAD: [unclear] L/T 1/1 S/T 1/1 OPER. STARTED         
 AGENT: Harper Robinson DEP: 4/13/66 DRAFT: 5:26 AM TUG: [unclear] L/T 1/1 S/T 1/1 OPER. COMPLETED         
 SHIPPER: [unclear] LINES: DOCKING: 6 AM - 5:50 AM - 7:00 AM DISC:        L/T 1/1 S/T 1/1 TOTAL TONNAGE        L/T 1/1 S/T 1/1  
 BERTH: [unclear] MATERIAL        SHIFTING:        L/T 1/1 S/T 1/1 DATE INVOICED:         
 FURNISHED: [unclear] SAILING: 7 AM - 5:00 AM - 7:00 AM IDLE:       

VESSEL: Mr. S. C. [unclear] ARR: 4/12/66 DRAFT: 2:14 TUG: [unclear] LOAD: [unclear] L/T 1/1 S/T 1/1 OPER. STARTED         
 AGENT: [unclear] DEP: 4/12/66 DRAFT:        TUG: [unclear] L/T 1/1 S/T 1/1 OPER. COMPLETED         
 SHIPPER: [unclear] LINES: DOCKING:        DISC:        L/T 1/1 S/T 1/1 TOTAL TONNAGE        L/T 1/1 S/T 1/1  
 BERTH: [unclear] MATERIAL        SHIFTING:        L/T 1/1 S/T 1/1 DATE INVOICED:         
 FURNISHED:        SAILING:        IDLE:       

VESSEL: Mr. D. [unclear] ARR: 4/12/66 DRAFT: 4:10 TUG: [unclear] LOAD: [unclear] L/T 1/1 S/T 1/1 OPER. STARTED         
 AGENT: [unclear] DEP: 4/12/66 DRAFT: 4:10 TUG: [unclear] L/T 1/1 S/T 1/1 OPER. COMPLETED         
 SHIPPER: [unclear] LINES: DOCKING: 4:10 - 5:00 AM - 11:30 PM DISC:        L/T 1/1 S/T 1/1 TOTAL TONNAGE        L/T 1/1 S/T 1/1  
 BERTH: [unclear] MATERIAL        SHIFTING:        L/T 1/1 S/T 1/1 DATE INVOICED:         
 FURNISHED:        SAILING: 5:00 AM - 11:30 PM IDLE:       

VESSEL: Mr. [unclear] ARR: 4/12/66 DRAFT:        TUG: [unclear] LOAD:        L/T 1/1 S/T 1/1 OPER. STARTED         
 AGENT: [unclear] DEP: 4/12/66 DRAFT:        TUG: [unclear] L/T 1/1 S/T 1/1 OPER. COMPLETED         
 SHIPPER: [unclear] LINES: DOCKING:        DISC: 4:10 - 1:15 L/T 1/1 S/T 1/1 TOTAL TONNAGE        L/T 1/1 S/T 1/1  
 BERTH: [unclear] MATERIAL        SHIFTING:        L/T 1/1 S/T 1/1 DATE INVOICED:         
 FURNISHED:        SAILING:        IDLE:

VESSEL: S.S. "Albatross" ARR: 5/10/66 DRAFT: 25' 0" TUG: See to LOAD LOAD: 2577.2863 L/T 1/1 S/T 1/1 OPER. STARTED 5/10/66  
 AGENT: Wm. J. Korman DEP: 5/10/66 DRAFT: 25' 0" TUG: Silver Eagle L/T 1/1 S/T 1/1 OPER. COMPLETED 5/10/66  
 SHIPPER: Wm. J. Korman LINES: DOCKING:                      DISO:                      L/T 1/1 S/T 1/1 TOTAL TONNAGE 1/1 S/T 1/1  
 BERTH: 6 MATERIAL                      SHIFTING:                      L/T 1/1 S/T 1/1 DATE INVOICED:                       
 FURNISHED: Swan SAILING:                      IDLE:                     

VESSEL: S.S. "Albatross" ARR: 5/10/66 DRAFT: 25' 0" TUG: See to LOAD LOAD: 2577.2863 L/T 1/1 S/T 1/1 OPER. STARTED                       
 AGENT: Wm. J. Korman DEP: 5/10/66 DRAFT: 25' 0" TUG: Silver Eagle L/T 1/1 S/T 1/1 OPER. COMPLETED                       
 SHIPPER: Wm. J. Korman LINES: DOCKING:                      DISO:                      L/T 1/1 S/T 1/1 TOTAL TONNAGE 1/1 S/T 1/1  
 BERTH: 6 MATERIAL                      SHIFTING:                      L/T 1/1 S/T 1/1 DATE INVOICED:                       
 FURNISHED: Swan SAILING:                      IDLE:                     

VESSEL: S.S. "Albatross" ARR: 5/10/66 DRAFT: 25' 0" TUG: See to LOAD LOAD: 2577.2863 L/T 1/1 S/T 1/1 OPER. STARTED                       
 AGENT: Wm. J. Korman DEP: 5/10/66 DRAFT: 25' 0" TUG: Silver Eagle L/T 1/1 S/T 1/1 OPER. COMPLETED                       
 SHIPPER: Wm. J. Korman LINES: DOCKING:                      DISO: 21.21.12 L/T 1/1 S/T 1/1 TOTAL TONNAGE 1/1 S/T 1/1  
 BERTH: 6 MATERIAL                      SHIFTING:                      IDLE:                      DATE INVOICED:                       
 FURNISHED: Swan SAILING:                     

VESSEL: S.S. "Albatross" ARR: 5/10/66 DRAFT: 25' 0" TUG: See to LOAD LOAD: 2577.2863 L/T 1/1 S/T 1/1 OPER. STARTED                       
 AGENT: Wm. J. Korman DEP: 5/10/66 DRAFT: 25' 0" TUG: Silver Eagle L/T 1/1 S/T 1/1 OPER. COMPLETED                       
 SHIPPER: Wm. J. Korman LINES: DOCKING:                      DISO: 23.23.12 L/T 1/1 S/T 1/1 TOTAL TONNAGE 1/1 S/T 1/1  
 BERTH: 6 MATERIAL                      SHIFTING:                      IDLE:                      DATE INVOICED:                       
 FURNISHED: Swan SAILING:



040700318

VESSEL: W. R. H. P. L. A. R. ARR: 8/11/66 DRAFT:            TUG:            LOAD:            L/T            S/T            OPER. STARTED             
 AGENT:            DEP:            DRAFT:            TUG:            L/T            S/T            OPER. COMPLETED             
 SHIPPER:            LINES: DOCKING:            DISC:            L/T            S/T            TOTAL TONNAGE            L/T            S/T             
 BERTH:            MATERIAL            SHIFTING:            SAILING:            L/T            S/T            DATE INVOICED:             
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VESSEL:            ARR:            DRAFT:            TUG:            LOAD:            L/T            S/T            OPER. STARTED             
 AGENT:            DEP:            DRAFT:            TUG:            L/T            S/T            OPER. COMPLETED             
 SHIPPER:            LINES: DOCKING:            DISC:            L/T            S/T            TOTAL TONNAGE            L/T            S/T             
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VESSEL:            ARR:            DRAFT:            TUG:            LOAD:            L/T            S/T            OPER. STARTED             
 AGENT:            DEP:            DRAFT:            TUG:            L/T            S/T            OPER. COMPLETED             
 SHIPPER:            LINES: DOCKING:            DISC:            L/T            S/T            TOTAL TONNAGE            L/T            S/T             
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VESSEL:            ARR:            DRAFT:            TUG:            LOAD:            L/T            S/T            OPER. STARTED             
 AGENT:            DEP:            DRAFT:            TUG:            L/T            S/T            OPER. COMPLETED             
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           FURNISHED:            IDLE:

040700520

VESSEL: M/V "Daphne" ARR: 9/14/66 DRAFT: 22' 00" - 22' 30" TUG: La Horne LOAD:                      L/T              S/T              OPER. STARTED                       
AGENT: Williams, Deane DEP: 9/14/66 DRAFT: 22' 00" - 22' 30" TUG: La Horne L/T              S/T              OPER. COMPLETED                       
SHIPPER: W. L. C. Co. LINES: DOCKING: C.N. - 5:40 PM - 4:30 AM DISC: 6.026.34 L/T              S/T              TOTAL TONNAGE              L/T              S/T               
BERTH: 6 MATERIAL                      SHIFTING:                      SAILING: LA - 5:40 PM - 4:30 AM DISC: 6.026.34 L/T              S/T              DATE INVOICED:                       
FURNISHED: Budget IDLE:                     

VESSEL: M/V "Daphne" ARR: 9/15/66 DRAFT: 22' 00" - 22' 30" TUG: La Horne LOAD:                      L/T              S/T              OPER. STARTED                       
AGENT: Williams, Deane DEP: 9/15/66 DRAFT: 22' 00" - 22' 30" TUG: La Horne L/T              S/T              OPER. COMPLETED                       
SHIPPER: W. L. C. Co. LINES: DOCKING:                      DISC: 4.55.34 L/T              S/T              TOTAL TONNAGE              L/T              S/T               
BERTH: 6 MATERIAL                      SHIFTING:                      SAILING:                      IDLE:                       
FURNISHED: Standard Cargo

VESSEL: M/V "Daphne" ARR: 9/16/66 DRAFT: 22' 00" - 22' 30" TUG: La Horne LOAD:                      L/T              S/T              OPER. STARTED                       
AGENT: Williams, Deane DEP: 9/16/66 DRAFT: 22' 00" - 22' 30" TUG: La Horne L/T              S/T              OPER. COMPLETED                       
SHIPPER: W. L. C. Co. LINES: DOCKING:                      DISC: 4.55.34 L/T              S/T              TOTAL TONNAGE              L/T              S/T               
BERTH: 6 MATERIAL                      SHIFTING:                      SAILING:                      IDLE:                       
FURNISHED: Standard Cargo

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AGENT: Williams, Deane DEP: 9/17/66 DRAFT: 22' 00" - 22' 30" TUG: La Horne L/T              S/T              OPER. COMPLETED                       
SHIPPER: W. L. C. Co. LINES: DOCKING: C.N. - 11:30 - 1:30 PM DISC:                      L/T              S/T              TOTAL TONNAGE              L/T              S/T               
BERTH: 6 MATERIAL                      SHIFTING:                      SAILING: LA - 5:40 PM - 4:30 AM L/T              S/T              DATE INVOICED:                       
FURNISHED: Standard Cargo IDLE:



# **PARR-RICHMOND TERMINAL COMPANY**

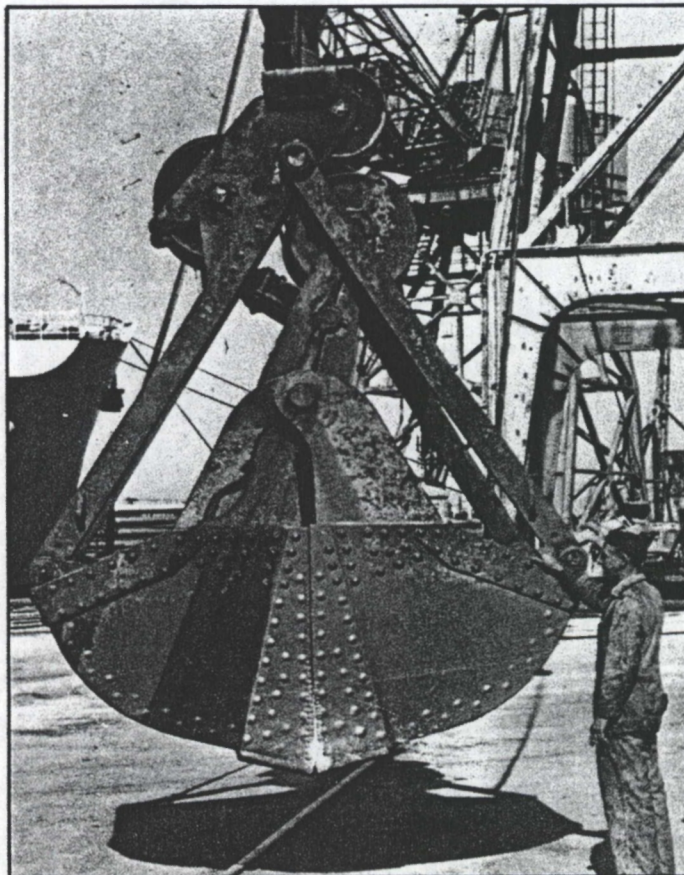
**RICHMOND, CALIFORNIA**

## **BULK CARGO TERMINAL**

**HEAVY LIFT TERMINAL**



**SCRAP IRON TERMINAL**



020280003

TERMINAL OFFICE: 402 WRIGHT AVENUE • RICHMOND, CALIFORNIA 94804 • TELEPHONE (415) 232-4422

**EXHIBIT 2**

# **BULK CARGO TERMINAL**

## **PARR-RICHMOND TERMINAL COMPANY**



### **PRESENT OFFICERS**

President . . . . . John Parr Cox  
Vice President and  
General Manager . . . . . Frank Domingo  
Secretary . . . . . R. J. McCormick  
Director and Assistant  
to the President . . . . . Bob Nishioka

Inquiries concerning rates and services are handled at the  
Terminal Office at 402 Wright Avenue, Richmond, California  
94804. Telephone (415) 232-4422

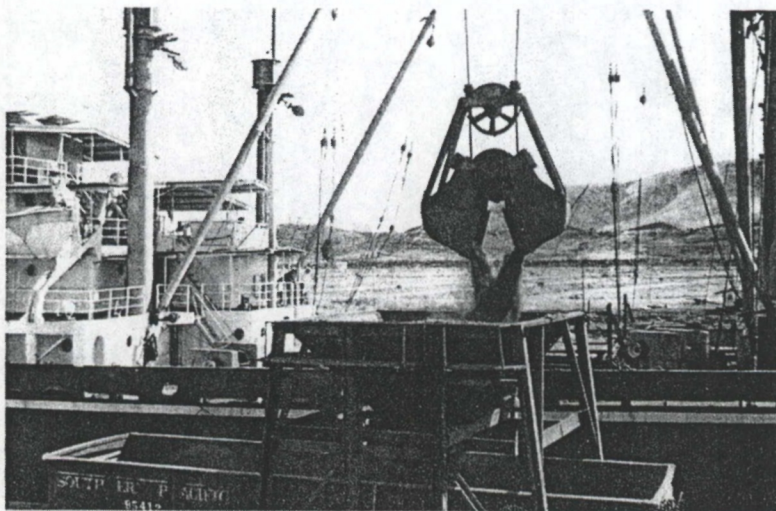
The Executive Office is maintained at 655 Sutter Street, San  
Francisco, California 94102. Telephone (415) 673-5886





Bulldozer equipment can be utilized to "high-pile" bulk commodities at shipside. Crawler Cranes can stockpile ore or scrap iron.

Loading trucks direct from ship or from shipside stockpile utilizing 5½ yard Clamshell Bucket and 20 ton capacity Portable Steel Hopper.



Unloading ore direct from ship to rail car utilizing Clamshell Bucket and Portable Steel Hopper.

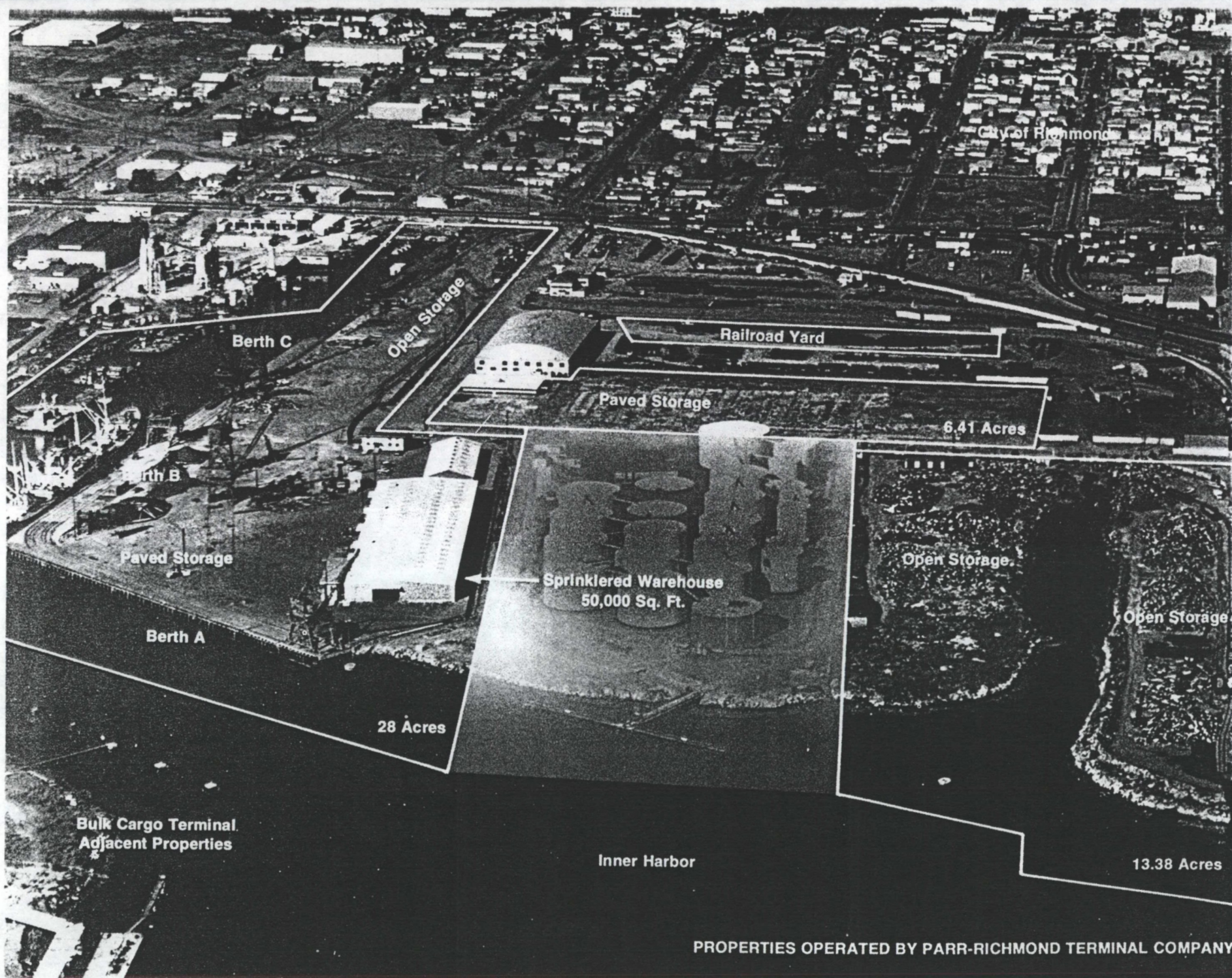




**SPRINKLERED WAREHOUSE**  
**50,000 SQ. FT.**

**Design Floor Capacity over 5 Tons Per Sq. Ft.**





PROPERTIES OPERATED BY PARR-RICHMOND TERMINAL COMPANY





Parr-Richmond Terminal Company conducts its operations at the facility known as the "Bulk Cargo Terminal." This operation is also known as the "Bulk Dock" and "Parr #5." The Terminal operations are conducted on the Inner Harbor of the City of Richmond situated on the north-easterly shore of San Francisco Bay. The Ship Channel leading to the Bulk Cargo Terminal is maintained by the United States Army of Engineers at a depth of minus 35 feet Lower Low Water. The berthing areas at the wharfs of the Bulk Cargo Terminal are dredged to a depth of minus 34 feet at Lower Low Water. The Terminal properties are served by a network of paved streets which connect directly with the principal interstate highway systems. All of the lands of the Bulk Cargo Terminal are served by electric power and industrial water systems. The properties of the Bulk Cargo Terminal are zoned for "Heavy Industry." This zoning is in the Master File as filed with the State of California. Rates and marine terminal services are set forth in the Company's Terminal Tariff No. 5.

Bulk Cargo Terminal rail traffic is handled by the Parr Terminal Railroad. The rail car holding yard of this system connects directly to the transfer tracks of the Southern Pacific and Santa Fe Railroads. These companies maintain rail car classification yards near the Terminal and provide frequent rail car switching service to Parr Terminal Railroad. All switching of railroad cars at the Bulk Cargo Terminal is performed by the Parr Terminal Railroad operating over 13,000 feet of track.

Immediately behind the wharf area the Company owns and operates considerable acreage available for long term storage. In addition to Bulk Cargos, the wharf at Berth A is expressly constructed to handle Heavy Lift Cargos, being designed to handle lift trucks with an 80 ton front-axel loading capacity. The wharf at Berth A is over 650 feet long. The open paved area behind Berth A is designed with a capacity to handle the same heavy loading as the wharf. A 50,000 square foot sprinklered Warehouse is located on Berth A and is equipped with high intensity interior lighting and unusually wide doors. The warehouse floor has been designed to handle an overall floor loading equivalent to the same capacity as the wharf at Berth A. The wharf at Berth B is 1,200 feet long and is designed to handle the transfer of bulk cargoes between ship and land carrier or ship and stockpile. The wharfs at A and B are served by double tracks and stockpile areas behind each berth are served by a network of spur tracks.

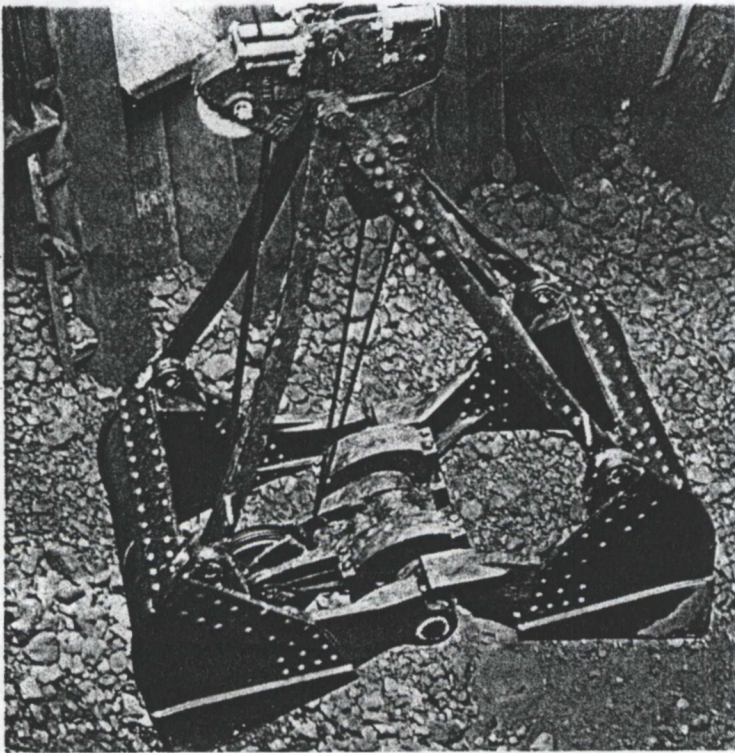
The wharfs and shipside stockpile areas are served by 6 Gantry Cranes which can be interchangeably equipped with Clamshell Buckets, Scrap Magnets or Heavy Lift Hooks. Three Portable Steel Hoppers of approximately 20 - tons capacity each can be used to facilitate loading rail cars or trucks, and their high capacity facilitates uninterrupted operation of the cranes while rail cars are being switched or trucks are being moved.

Weighing facilities consist of two highway truck scales and one 350 ton capacity railroad scale. Parr-Richmond Terminal Company issues Certified Weights for rail cars or trucks.

Pilotage, towage and other ship services are similar to those charges pertaining at other San Francisco Bay ports. The United States Customs Service maintains an office in Richmond.

Additional information concerning the facilities and services may be obtained from the Parr-Richmond Terminal Company at 402 Wright Avenue, Richmond, California 94804. Telephone (415) 232-4422.

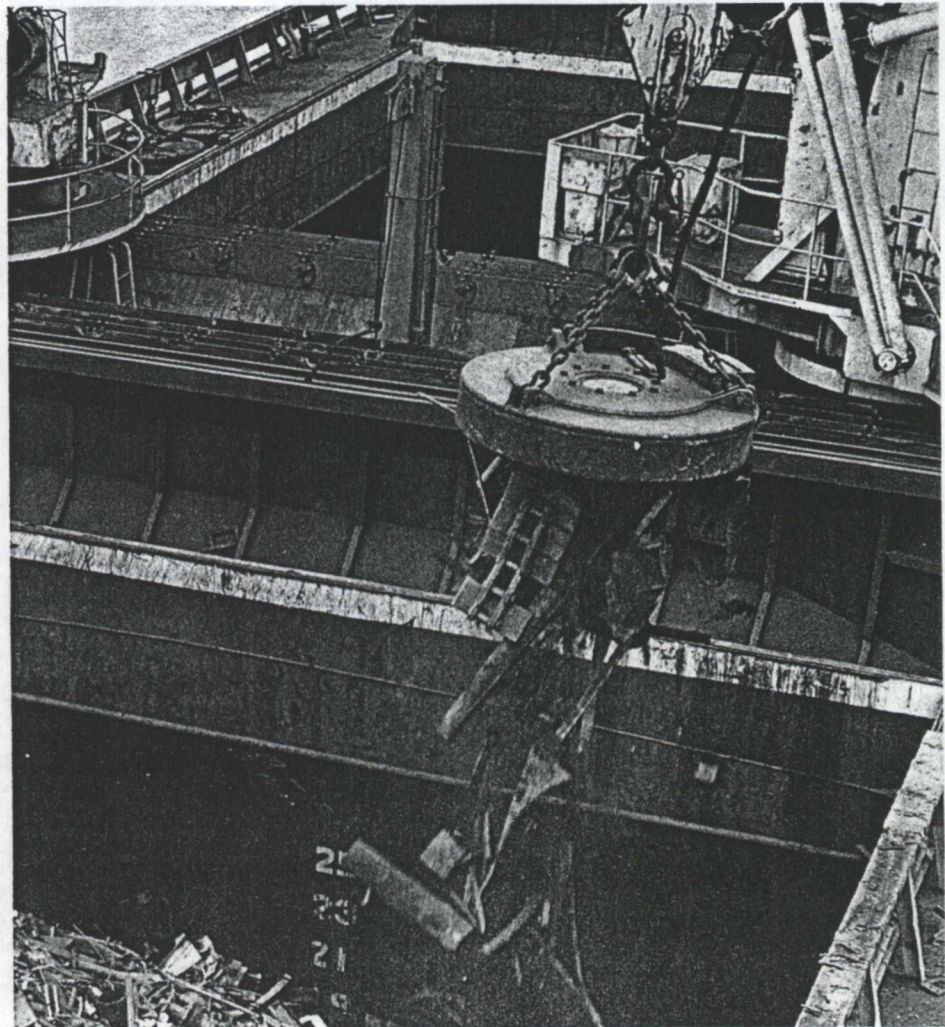




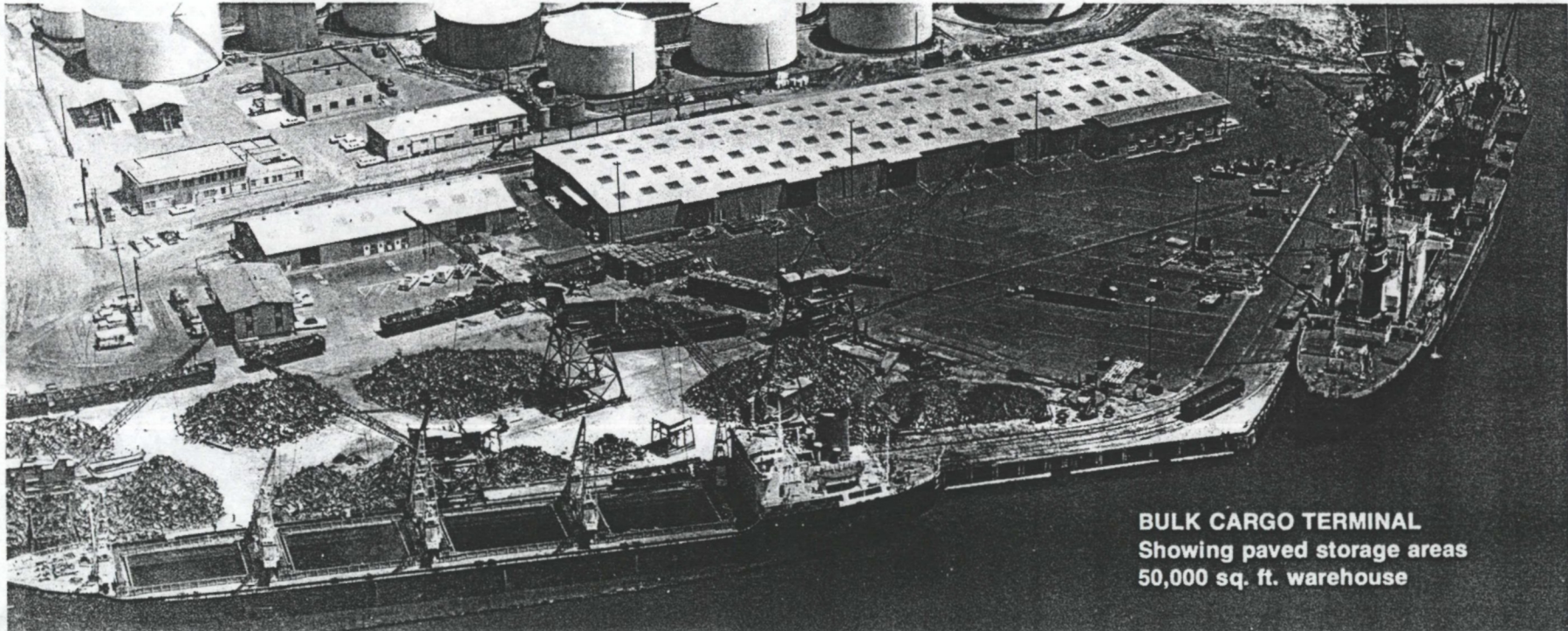
Ores, chemicals, etc., are effectively transferred between vessels and land carriers or shipside stockpiles by means of Clamshell Buckets. The Bulk Cargo Terminal provides shipside Gantry Cranes with Clamshell Buckets ranging in capacity from approximately 6 yards to 2 yards. Orangepeel Buckets are available for non-ferrous materials or special cargos. Trimming bulk cargos within the ship or on the dock is performed by bulldozers or rubber-tired payloader equipment available at the Terminal or from equipment rental agencies in the area.



Magnets may be used with all cranes for the handling of Steel Scrap, including Heavy Melting, Bundles, Automotive Scrap, Ship Scrap, Armour Plate, Turnings, Shredded Tin and Railroad Scrap. Shipperside stockpiling is available for Scrap Iron or related Commodities. Rail cars and truck delivery of Scrap Metal are quickly handled and Weight Certificates can be issued for light and heavy weights or rail cars and trucks.







**BULK CARGO TERMINAL**  
Showing paved storage areas  
50,000 sq. ft. warehouse

### TYPICAL COMMODITIES

Rutile (Titanium Oxide) • Bonemeal • Fluorspar • Potash • Iron Pyrite •  
Ammonia Sulphate • Chrome Ore • Iron Ore Pellets • Bauxite •  
Ammonium Phosphate • Acidulated Phosphate • Petroleum Coke •  
Crystal Urea • Soda Ash • Phosphoric Rock • Boric Acid • Limestone •  
Single Super Phosphate • Ilmenite Ore • Lead Concentrate •  
Magnesite • Salt • Bones • Chalk • Iron Ore.

Scrap Iron • Railroad Rails • Logs • Pileing • Steel Turnings • Steel  
Rods • Steel Pipe • Machinery • Locomotives • New Steel Products •  
Steel Beams • Steel Coils • Military Tanks • Oil Refinery Equipment •  
Railroad Cars • Lumber • Miscellaneous Steel Products

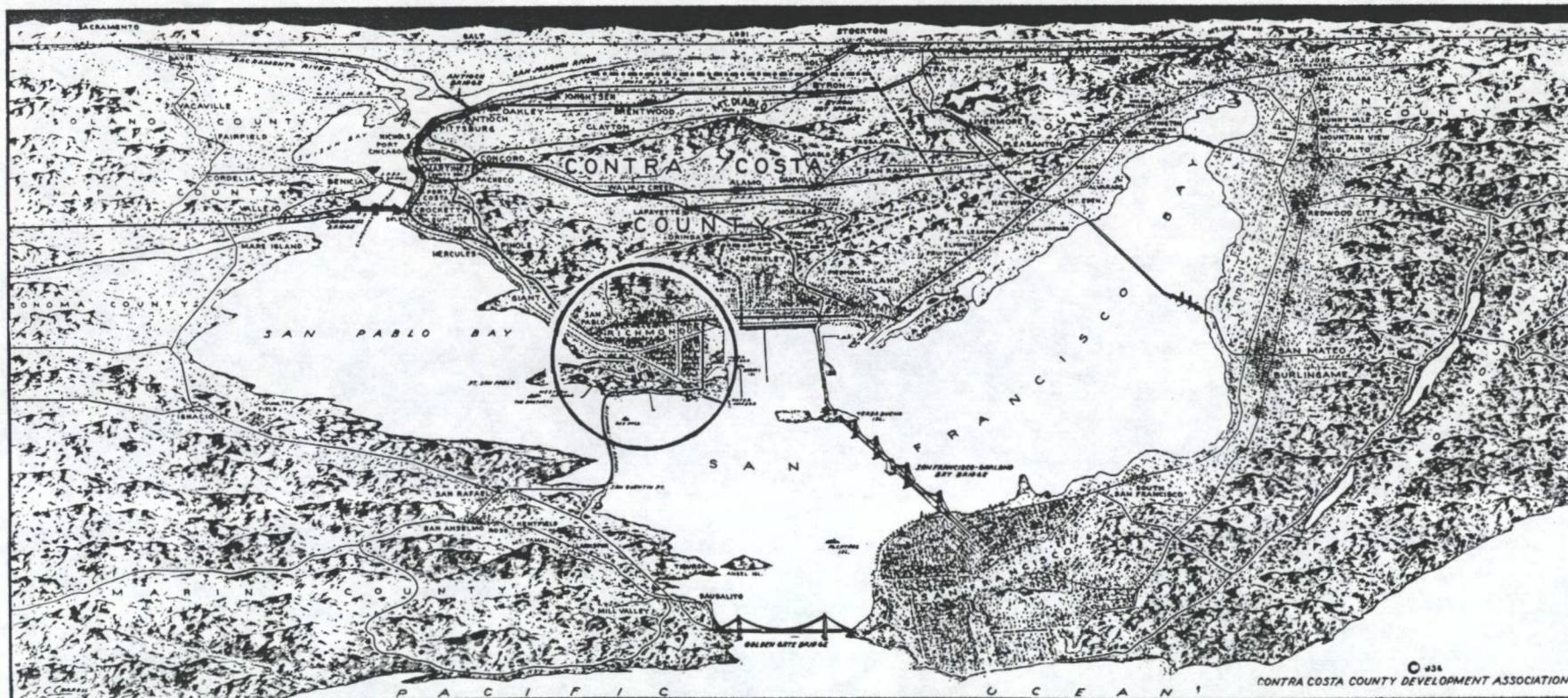
### CRANES

The Bulk Cargo Terminal is equipped with 6 Gantry Cranes rated from 45 to 55 tons capacity. These cranes may be equipped with Magnets, Clam Shell Buckets, Heavy Lift Hooks and Whip Lines. The cranes can be operated in any combination and 2 cranes can be used in tandem when handling Heavy Lifts.

**PARR-RICHMOND TERMINAL COMPANY**  
402 WRIGHT AVENUE • RICHMOND, CALIFORNIA 94804  
TELEPHONE (415) 232-4422



**BULK CARGO TERMINAL AND ADJACENT PROPERTIES  
OPERATED BY PARR-RICHMOND TERMINAL COMPANY  
RICHMOND, CALIFORNIA**



Richmond is located on San Francisco Bay and is almost directly east of the Golden Gate Bridge. Deep draft vessels can easily enter the port of Richmond and the Inner Harbor through government maintained channels of minus 35 feet at Lower Low Water. The Bulk Cargo Terminal vessel berths are maintained at a depth of minus 34 feet Lower Low Water. Switching arrangements are made through the Terminal offices at Richmond.





## SHIPSIDE STOCKPILING

Shipside stockpiling of dry bulk cargo, scrap iron, steel and heavy lifts is a unique feature of San Francisco Bay's only complete dry bulk cargo facility. The capacity of the shipside stockpile areas depends on the nature and required segregations of the cargo. An unsegregated load of ore has been stockpiled in excess of 50,000 tons.

The Bulk Cargo Terminal is the only privately owned and operated terminal facility on San Francisco Bay, which is completely adapted for dry bulk cargo and which is zoned for "Heavy Industry." Shippers wishing to avail themselves of the Open Storage Area behind the terminal facility for holding or processing bulk cargos can obtain information from the Parr-Richmond Terminal Company at 402 Wright Avenue, Richmond, California 94804. Telephone (415) 282-4422.



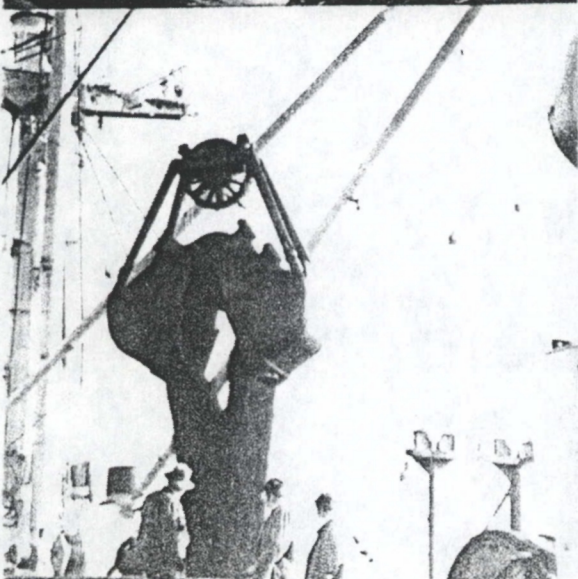
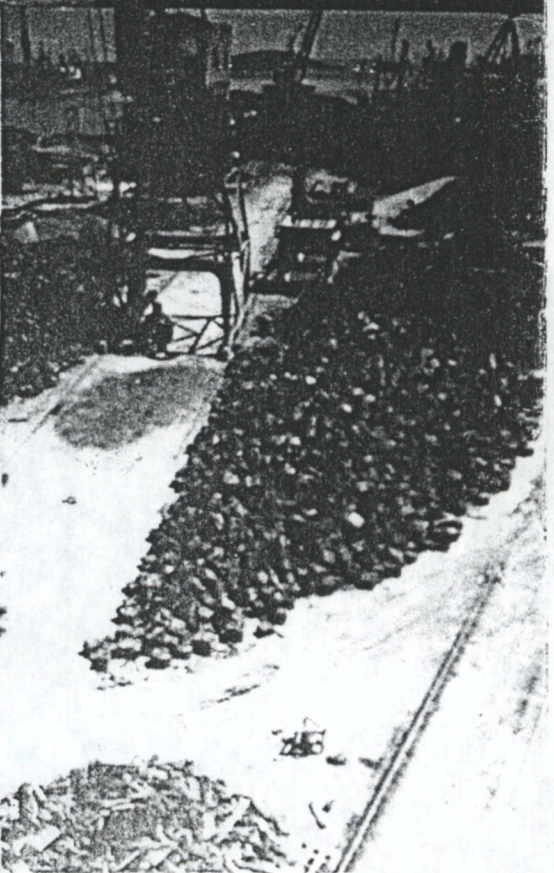
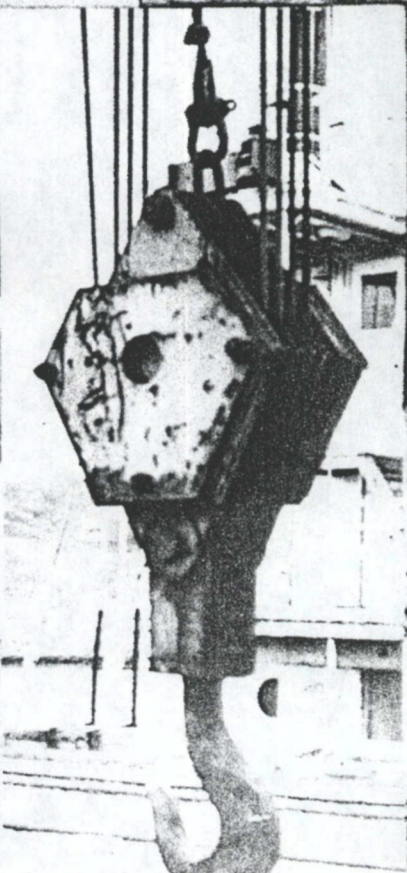
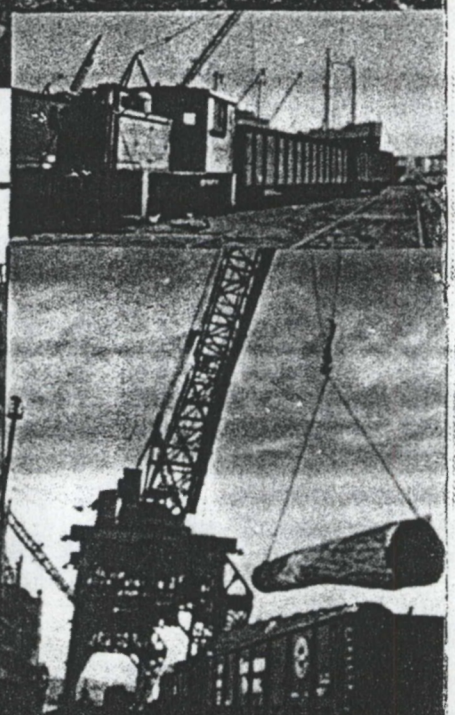
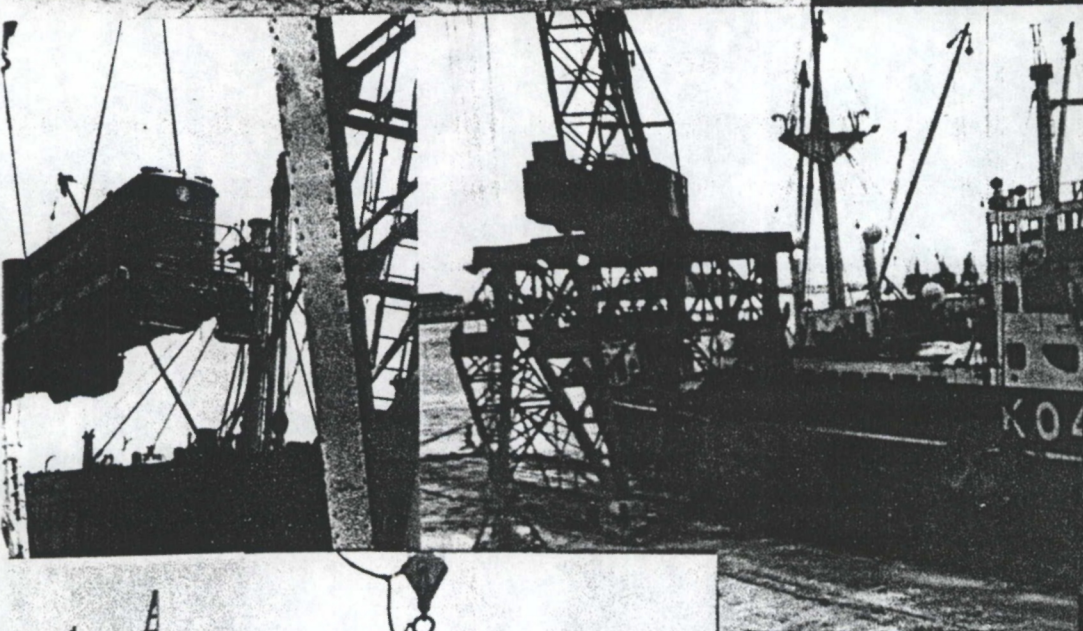
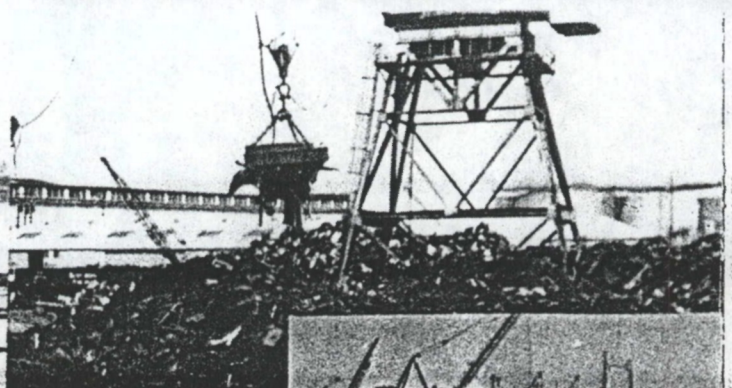
# PARR-RICHMOND TERMINAL COMPANY



The principal ownership has remained with the same family which has been active in the ownership and operation of Marine Terminal facilities in San Francisco Bay since 1914. The Parr-Richmond Terminal Company was created in 1925 by the same family offering a unique continuity of Marine Terminal experience.

Present officers are John Parr Cox, President, Frank Domingo, Vice President and General Manager, R. J. McCormick, Secretary, and Bob Nishioka, Director and Assistant to the President. Inquiries concerning rates and services are handled at the Terminal Office at 402 Wright Avenue, Richmond, California 94804. Telephone (415) 232-4422. The Executive Office is maintained at 655 Sutter Street, San Francisco, California 94102. Telephone (415) 673-5886.







PRELIMINARY REPORT

WESTERN TITLE INSURANCE COMPANY

1401 NORTH BROADWAY • P.O. BOX 5286 • WALNUT CREEK, CALIFORNIA 94596 • (415) 935-3210

Please forward all instructions, documents and inquiries relative to the ESCROW CLOSING to the office designated below.

- \_\_\_ 1401 NORTH BROADWAY, P.O. BOX 5286, WALNUT CREEK 94596 — 935-3210
- \_\_\_ 17th and A STREETS, P.O. BOX 486, ANTIOCH 94509 — 757-7010
- \_\_\_ 319 DIABLO ROAD, SUITE 100, P.O. BOX 517, DANVILLE 94526 — 838-8311
- \_\_\_ 3631 MT. DIABLO BLVD., P.O. BOX 986, LAFAYETTE 94549 — 284-7900
- \_\_\_ 821 MAIN STREET, P.O. BOX 311, MARTINEZ 94553 — 228-1650
- \_\_\_ 6 BRYANT WAY, P.O. BOX 587, ORINDA 94563 — 254-1650
- \_\_\_ 759 APPIAN WAY, P.O. BOX 642, PINOLE 94564 — 758-6220
- \_\_\_ 12962 SAN PABLO AVENUE, P.O. BOX 365, STATION A, RICHMOND 94808 — 237-8900
- X 333 Market St., Suite 3130, San Francisco, CA

Western Title Insurance Company  
333 Market St., Suite 3130  
San Francisco, CA

cc: Rothschild and Associates  
Attn: Peter A. Rothschild

RN/lg  
Our Order No.: W-481523  
Escrow Officer: Paul Andrieu  
Rate: Over Two Years  
San Francisco Order No. SF-596847-PA

UPDATED PRELIMINARY REPORT NO. 1

In response to the above referenced application for a policy of title insurance, WESTERN TITLE INSURANCE COMPANY, hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof a California Land Title Association Standard Coverage form Policy of Title Insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as Exception below or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations of said policy form.

This report (and any supplements or amendments thereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a Binder or Commitment should be requested.

*Rick Noel*

VICE PRESIDENT

Dated at 7:30 a.m. on March 9, 1981

The estate or interest in the land described herein and which is covered by this report is:

Parcels One, Two, Three, Four, Five and Six, a fee; Parcels Seven, Eight and Nine, easements

Title to said estate or interest at the date hereof is vested in:

PARR-RICHMOND TERMINAL COMPANY, a corporation

Property Address:

As to a portion of Parcel One and all of Parcel Two: 402 Wright Avenue, Richmond, CA; As to the remainder of the premises: None

**EXHIBIT 3**

SEE PAGE TWO FOR EXCEPTIONS

081040050

1- 1981-82 taxes a lien, not yet payable.

2- 1980-81 taxes (assessed separately)

Tax Bill No.: 560-380-007

Code Area: 8050

1st Installment: \$24,811.93, paid

2nd Installment: \$24,811.93, unpaid

Land: \$286,005

Imp: \$589,517

Pers. Ppty.: \$93,830

Includes \$216.00 for special charges

Affects a portion of Parcel One and all of Parcel Two.

Tax Bill No.: 560-380-002

Code Area: 8001

1st Installment: \$318.15, paid

2nd Installment: \$318.15, unpaid

Land: \$7661

Imp: \$1998

Includes \$144.00 for special charges

Affects a portion of Parcel One and all of Parcel Six.

Tax Bill No.: 560-250-007

Code Area: 8050

1st Installment: \$454.95, paid

2nd Installment: \$454.95, unpaid

Land: \$17,852

Affects Parcel Three.

Tax Bill No.: 560-280-011

Code Area: 8050

1st Installment: \$3949.02, paid

2nd Installment: \$3949.02, unpaid

Land: \$140,327

Imp: \$14,628

Affects Parcel Four.

Tax Bill No.: 560-250-003

Code Area: 8050

1st Installment: \$3159.36, paid

2nd Installment: \$3159.36, unpaid

Land: \$90,864

Imp: \$21,805

Includes \$576.00 for special charges

Affects Parcel Five.

3- Rights and easements for commerce, navigation, and fishery in favor of the public, or the federal, state or municipal government.

4- Any public trust rights or claims thereof, of the State of California, in that portion of said land which has not been filled and reclaimed, notwithstanding that said lands were conveyed by the Board of Tideland Commissioners pursuant to an act entitled

"An act to survey and dispose of certain salt marsh and tide lands belonging to the State of California" approved March 30, 1868 and supplementary act approved April 1, 1870.

5- Private rights of owners of Lots in Ellis Landing Sub-division filed October 28, 1913, Map Book 11, page 247, Contra Costa County records, in and to East Wharf, West Wharf, Commercial Avenue and Ellis Canal, as shown on said map.

Affects Parcel Four.

6- Easement for canal purposes and appurtenances thereto reserved by H. C. Cutting Company recorded August 5, 1927, Book 93, Official Records, page 133.

Affects the southerly portion of Parcel One.

7- The interest of the City of Richmond, due to the inadequate description contained in the deed from the City of Richmond to Parr Richmond Terminal Corporation, recorded November 14, 1941, Book 631, Official Records, page 19.

Affects that portion of Parcel Four shaded blue on the plat attached hereto.

8- The rights reserved unto the defendants in the Final Judgment dated March 27, 1944 in the District Court of the United States, in and for the Northern District of California, Southern Division, entitled United States of America, plaintiff vs. N. P. Bush, et al, defendants (Case No. 22732-G),-a certified copy of which was recorded May 5, 1945, Book 814, Official Records, page 374 and recorded November 21, 1947, Book 1150, Official Records, page 368.

Affects that portion of Parcel One outlined in brown on the plat attached hereto.

9- The rights reserved unto the defendants in the Final Judgment, recorded August 8, 1947, in the District Court of the United States, in and for the Northern District of California, Southern Division, entitled United States of America, plaintiff vs. N. P. Bush, et al, defendants (Case No. 22966-R),-a certified copy of which was recorded March 8, 1948, Book 1181, Official Records, page 427 and recorded August 14, 1948, Book 1275, Official Records, page 1.

Affects that portion of Parcel One outlined in orange on the plat attached hereto.

10-Easement for railroad purposes and appurtenances thereto granted to The Atchison, Topeka and Santa Fe Railroad Company recorded February 23, 1951, Book 1720, Official Records, page 200.

Affects a portion of Parcel Four.

11- Easement for railroad purposes and appurtenances thereto granted to Parr Terminal Railroad recorded April 6, 1951, Book 1743, Official Records, page 511.

Affects a portion of Parcels One, Two and Five.

12- Easement for railroad purposes and appurtenances thereto granted to Parr Terminal Railroad recorded March 26, 1952, Book 1910, Official Records, page 241.  
Affects a portion of Parcels One, Two, Five and Six.

13- Easement for railroad and vehicular traffic, pipe lines and utilities and appurtenances thereto granted to Parr-Richmond Terminal Company recorded December 30, 1955, Book 2681, Official Records, page 353.  
Affects a portion of Parcels Two and Six.

14- Terms, conditions and provisions embodied in the notice of conditional use permit made by and between the City of Richmond and Parr-Richmond Terminal Company, recorded December 15, 1965, Book 5014, Official Records, page 389.  
Affects Parcel Four.

15- Easement for drainage purposes and appurtenances thereto granted to City of Richmond recorded November 9, 1966, Book 5241, Official Records, page 36.  
Affects a portion of Parcel Four.

16- Easement for railroad purposes and appurtenances in favor of Time Oil Company, embodied in the instrument recorded November 23, 1966, Book 5250, Official Records, page 420.  
Affects a portion of Parcel One.

17- Easement for water mains and appurtenances thereto granted to Marcus T. Lummus, et al recorded June 28, 1971, Book 6418, Official Records, page 322.  
Affects a portion of Parcel Five.

18- Ordinance No. 10-75 N.S., by the City of Richmond Adopting the Urban Renewal Plan for Project 11-A (the Harbour) recorded June 11, 1975, Book 7532, Official Records, page 710 and covenants, conditions and restrictions embodied in the declaration recorded June 20, 1980, Book 9885, Official Records, page 439.

19- Easement for storm drainage and appurtenances thereto granted to City of Richmond recorded October 6, 1976, Book 8044, Official Records, page 255.  
Affects a portion of Parcel Six.

NOTE: According to the public records, there have been no deeds conveying the property described in this report recorded within a period of six months prior to the date of this report except as follows:  
None

081040053



Those parcels of land in the City of Richmond, County of Contra Costa, State of California, described as follows:

#### PARCEL ONE

Portion of Tide Land Lots 26 and 27, Section 13, portion of Tide Land Lots 6, 7, 10 and 11, Section 24, Township 1 North, Range 5 West, Mount Diablo Base and Meridian, and a portion of Swamp and Overflow Lands in said Township and Range, described as follows:

Beginning on the south line of the 3.39 acre strip of land described in the deed to The City of Richmond, recorded August 11, 1948, Book 1272, Official Records, page 161, at the northwest corner of the 8.938 acre parcel of land described in the deed to Time Oil Company, recorded June 23, 1950, Book 1580, Official Records, page 553; thence from said point of beginning along the west lines of said 8.938 acre parcel south 7° 22' 42" east, 755.15 feet and south 39° 35' 54" west, 183.99 feet to the southwest corner thereof; thence continuing south 39° 35' 54" west, 148.21 feet to the south line of the parcel of land firstly described in the deed to Parr-Richmond Industrial Corporation, recorded June 1, 1949, Book 1394, Official Records, page 370; thence along the exterior boundary lines of said parcel (1394 OR 370), as follows: North 50° 45' 20" west, 837.27 feet; north 0° 08' east, 287.09 feet; north 41° 46' east, 94.75 feet; north 4° 45' east, 646.21 feet; south 89° 50' 50" east, 75.64 feet; north 12° 47' 24" east, 231.34 feet; north 89° 55' east, 39.57 feet; north 0° 05' west, 309.99 feet; north 16° 00' 31" east, 60.11 feet; north 6° 09' 11" east, 121.33 feet; north 89° 55' east, 8.55 feet and north 0° 08' east, 30.82 feet; thence leaving said exterior boundary line south 89° 35' east, 144.10 feet; thence south 6° 53' east, 49.45 feet; thence south 5° 04' west, 833.81 feet; thence south 84° 56' east, 173.95 feet to the west line of said 3.39 acre parcel; thence along the west and south lines of said 3.39 acre parcel, south 0° 31' west, 373.95 feet and south 89° 31' east, 195.48 feet to the point of beginning.

#### PARCEL TWO

Portion of Block 50 and a portion of Fourth Street as shown on the Revised Map of Santa Fe, filed August 24, 1915, in book 12 of Maps, page 280; portion of Lot 42 as shown on the map of San Pablo Rancho, filed March 1, 1894; portion of Tide Lot 27, Section 13 and a portion of Tide Lot 6, Section 24, Township 1 North, Range 5 West, Mount Diablo Base and Meridian, as shown on Map No. 1 Salt Marsh and Tide Lands, filed June 11, 1917, in Rack Map No. 9, in the office of the County Recorder of Contra Costa County, described as follows:

Beginning on the most western line of that certain strip of land containing 3.39 acres, more or less, described in the deed from Parr-Richmond Industrial Corporation to City of Richmond, recorded August 11, 1948, in book 1272 of Official Records, page 161, at the eastern terminus of the line given as "North 84° 56' West, 173.95 feet" the bearing of said line being taken as North 83° 58' 39" West for the purpose of this description, in the deed from Parr-Richmond

Industrial Corporation to Parr-Richmond Terminal Company, recorded December 30, 1955, in book 2681 of Official Records, page 353; thence from said point of beginning along the exterior lines of said parcel (2681 OR 353) as follows: North 83° 58' 39" West, 173.95 feet; North 6° 01' 21" East, 833.81 feet; North 5° 55' 39" West, 49.45 feet and North 88° 37' 39" West, 18.85 feet; thence North 4° 14' 09" West, 44.61 feet; thence northerly along the arc of a tangent curve to the right having a radius of 360 feet an arc distance of 51.31 feet; thence North 3° 55' 51" East, 88.52 feet to the south line of Cutting Boulevard; thence South 88° 39' 09" East along said south line 24.79 feet to the south line of the parcel of land described as Parcel One in the deed from Parr-Richmond Industrial Corporation to Southern Pacific Railroad Company, recorded August 7, 1953, in book 2172 of Official Records, page 514; thence along said south line as follows: South 83° 58' 13" East, 68.37 feet; easterly along the arc of a tangent curve to the right having a radius of 291.90 feet an arc distance of 35.37 feet and South 73° 32' 21" East, 7.49 feet to the extension North 1° 28' 21" East at the most western line of said City of Richmond Parcel (1272 OR 161); thence South 1° 28' 21" West along said extension and along said western line 1057.71 feet to the point of beginning.

#### PARCEL THREE

Portion of Tide Lots 5 and 6, Section 24, Township 1 North, Range 5 West, Mount Diablo Base and Meridian, as shown on Map No. One Salt Marsh and Tide Lands, filed June 11, 1917, in Rack Map No. 9, in the office of the County Recorder of Contra Costa County, described as follows:

Beginning on the east line of that certain parcel of land containing 3.39 acres, more or less, described in the deed from Parr-Richmond Industrial Corporation to the City of Richmond recorded August 11, 1948, in book 1272 of Official Records, page 161, distant thereon South 1° 28' 21" West, 571.95 feet from the south line of Cutting Boulevard; said point of beginning being at a point from which the center of a curve to the left having a radius of 182.06 feet bears North 30° 51' 51" East; thence easterly along the arc of said curve an arc distance of 67.36 feet to a point from which the center of a compound curve to the left having a radius of 343.80 feet bears North 9° 39' 51" East; thence easterly along the arc of said curve an arc distance of 50 feet; thence South 88° 40' 09" East tangent to the last mentioned curve 361.20 feet; thence easterly along the arc of a tangent curve to the right having a radius of 138 feet an arc distance of 66.07 feet; thence South 61° 11' 56" East 31.01 feet; thence easterly along the arc of a tangent curve to the left having a radius of 238 feet an arc distance of 113.96 feet to the most western line of the parcel of land described as Parcel One in the deed from Parr-Richmond Industrial Corporation to the Southern Pacific Railroad Company, et al, recorded October 2, 1953, in book 2202 of Official Records, page 341; thence South 1° 19' 51" West along said western line 40 feet to the southern line thereof; thence North 88° 40' 09" West 562.16 feet; thence westerly along the arc of a tangent curve to the right having a radius of 250.78 feet an arc

distance of 50.04 feet to a point from which the center of a compound curve to the right having a radius of 190.53 feet bears North 12° 45' 51" East; thence westerly along the arc of said curve an arc distance of 68.95 feet to the east line of said City of Richmond parcel (1272 OR 161); thence North 1° 28' 21" East along said east line 91.60 feet to the point of beginning.

#### PARCEL FOUR

A portion of Amendment to Map of Ellis Landing, filed October 28, 1913, in book 11 of Maps, page 247; and a portion of Tide Lots 5 and 12, Section 24, Township 1 North, Range 5 West, Mount Diablo Base and Meridian, as shown on Map No. 1, Salt Marsh and Tide Lands, filed June 11, 1917, said maps being filed in the office of the County Recorder of Contra Costa County and more particularly described as follows:

Beginning at a point on the western line of Eighth Street as said street is shown on said Amendment to Map of Ellis Landing, said point being also the southeast corner of the 3.39 acre strip described in deed from Parr Richmond Industrial Corporation to the City of Richmond for street purposes, (said portion of said strip being commonly called Wright Avenue), recorded August 11, 1948, in book 1272 of Official Records, page 161; thence South 1° 26' 21" West along the western line of said Eighth Street and its southerly projection 1229.02 feet to the southerly line of Dock Avenue as said Dock Avenue is shown on said Amendment to Map of Ellis Landing; thence South 62° 53' 39" East along said southerly line of Dock Avenue, 15.76 feet to the northern corner of the tract of land described as Parcel One in the deed from the Ellis Landing and Dock Co., a corporation, to the City of Richmond, dated February 10, 1926, recorded April 22, 1926, in book 29 of Official Records, page 283; thence South 4° 19' 34" East along the west line of said last mentioned parcel and along the west line of Parcel Two described in said deed (29 OR 283), 120.30 feet to the northerly U.S. Pierhead and Bulkhead Line of said Richmond Inner-Harbor; thence North 71° 04' 25" West along said northerly line, 467.06 feet to the southerly extension of the easterly line of the parcel of land described in deed from Parr Richmond Industrial Corporation to Time Oil Co., dated June 9, 1950 and recorded June 23, 1950, in book 1580 of Official Records, page 553; thence North 2° 38' 09" West along said southerly extension and said easterly line, 1218.26 feet to the southerly line of the said 3.39 acre strip (1272 OR 161); thence South 88° 33' 39" East along said southerly line, 505.76 feet to the point of beginning.

EXCEPTING THEREFROM: The parcel of land described in the deed to Time Oil Co., recorded November 23, 1966, Book 5250, Official Records, page 411.

#### PARCEL FIVE

Portion of Block 5, West Wharf, now vacated, and Ellis Canal, now vacated, as shown on amendment to map of Ellis Landing Subdivision, filed in Map Book 11, page 247, in the office of the County Recorder of Contra Costa County, and portion of Tide Lots 5 and 6, Section 24, Township 1 North, Range 5 West, Mount Diablo Base and Meridian, Map

No. 1, Salt Marsh and Tide Lands, filed June 11, 1917 as Rack Map No. 9, and Swamp and Overflowed Lands Survey No. 150, all in the office of the County Recorder of said county, described as a whole as beginning at a point in the northern line of the 3.39 acre strip described in the deed to the City of Richmond, for the purpose of public streets, dated May 6, 1948, recorded August 11, 1948, Book 1272, Official Records, page 161, distant thereon North 89° 31' west 275.53 feet from the western line of Eighth Street as said street is shown on said amendment to map of Ellis Landing Subdivision, the bearing of said western line of Eighth Street is taken as south 0° 29' west for the purpose of this description; thence along the northern, northeastern and eastern boundaries of said 3.39 acre strip, 1272 OR 61, north 89° 31' west 755.63 feet, along the arc of a curve concave to the northeast having a radius of 60 feet, an arc distance of 94.28 feet and north 0° 31' east 200.24 feet; thence leaving said strip, south 89° 31' east 174.34 feet; north 0° 31' east, 105.48 feet; south 89° 30' east, 641.05 feet to a point that bears north 0° 29' east from the point of beginning; thence south 0° 29' west 365.58 feet to the point of beginning.

#### PARCEL SIX

Beginning at the northwestern corner of the land designated as Parcel 2 in the Quit Claim Deed to Parr-Richmond Industrial Corporation, recorded June 1, 1949 in book 1394 of Official Records of Contra Costa County, page 370; running thence along the northern line of said land, being the Southern line of Cutting Boulevard, easterly, 88.61 feet to the eastern line of the land secondly described in the deed to Parr-Richmond Terminal Corporation, recorded December 30, 1953, in book 2681 of Official Records of Contra Costa County, page 353; thence along the last named line South 1° 56' West, said bearings used for the purpose of this description, 139.51 feet and south 6° 53' West 38.59 feet to the northern line of the land firstly described in said last mentioned deed; thence along the last named line North 89° 34' West 144.10 feet to the western line of said land firstly mentioned 1394 OR 370; and thence along the last named line North 83 feet and North 39° 53' East 84.13 feet to the point of beginning.

EXCEPTING THEREFROM: That portion thereof lying within the lines of the parcel of land described as Parcel One in the deed to Parr-Richmond Terminal Company, recorded October 4, 1951, Book 3966, Official Records, page 474.

#### PARCEL SEVEN

An exclusive easement and right of way for the purpose of laying, operating, maintaining, repairing and restoring railroad tracks and the operation of locomotives and rail cars and for general railroad purposes over and upon:

Portion of Tide Lot 12, Section 24, Township 1 North, Range 5 West, Mount Diablo Base and Meridian, described as follows:

Beginning on the north line of the parcel of land firstly described in the deed from Parr-Richmond Industrial Corporation, a California corporation, to Time Oil Co., a Washington corporation, recorded June 23, 1950 in book 1580, Official Records, page 553 at the west line of the parcel of land described in the deed from Parr Industrial Corporation, a California corporation, to Parr-Richmond Terminal Company, a California corporation, recorded December 20, 1956, in book 2902, Official Records, page 513, distant thereon north  $88^{\circ} 33' 39''$  west 25.00 feet from the northeast corner thereof; thence from said point of beginning along the north line of said Time Oil Co., parcel (1580 OR 553) and along the west line of said Parr-Richmond Terminal Company parcel (2902 OR 513) as follows: South  $88^{\circ} 33' 39''$  East 25.00 feet and South  $2^{\circ} 38' 09''$  east 50.00 feet, to a point which bears South  $28^{\circ} 21' 07''$  East from the point of beginning; thence North  $28^{\circ} 21' 07''$  West 57.47 feet to the point of beginning.

#### PARCEL EIGHT

An easement over and in the real property owned by M. Lummus, Inc. in the County of Contra Costa, City of Richmond, State of California, 10 feet in width for the purpose of maintaining, operating, replacing, removing and renewing water mains which presently lie within said property, the center line of which easement is more particularly described as follows:

Commence at the point of intersection of the north line of Wright Avenue as said Avenue is described in the deed to the City of Richmond (recorded in the Contra Costa County Records on August 11, 1948 in Book 1272 on Page 161) with the westerly line of that parcel of land designated as Parcel One in the quit claim deed to the Pacific Railroad Company, et al, recorded October 2, 1953, in Book 2202 of Official Records of Contra Costa County on Page 341; thence along last mentioned westerly line as follows: North  $0^{\circ} 29'$  East 205.53 feet, North  $10^{\circ} 18' 11''$  West 120.38 feet, North  $16^{\circ} 02' 27''$  West 120.42 feet to a point from which the center of a curve to the left (radius = 352.24 feet) bears South  $73^{\circ} 57' 33''$  West; thence northerly along the arc of last mentioned curve ( $R = 352.24$  feet) through a central angle of  $6^{\circ} 12' 12''$  to a point from which its center bears South  $67^{\circ} 45' 21''$  West, which point also marks the true point of beginning of Parcel One; thence South  $56^{\circ} 04' 40''$  West 249.62 feet to a point on the east line of that parcel of land now or formerly leased by Gar Wood Industries, which point bears South  $0^{\circ} 29'$  west along last mentioned east line and distant 31.49 feet from the northeast corner of said Gar Wood lease, said point being also the end of Parcel One, said description of Parcel One being the centerline of a strip of land 10 feet in width.

#### PARCEL NINE

An easement for the purpose of maintaining, operating, replacing, removing and renewing water mains which presently lie within said easement, over and in the following described property situated in the County of Contra Costa County, City of Richmond, State of California:

Commence at a point marking the north end of a curve to the right (radius = 60 feet) with an interior angle  $90^{\circ} 02'$  as said curve is described in the deed to the City of Richmond, recorded on August 11, 1948 in Book 1272 of Contra Costa County Records on Page 161, said point being also on the east right of way line of Fourth Street as said street is also described in the above-mentioned deed to the City of Richmond (1272 OR 161); thence North  $0^{\circ} 31'$  east along last mentioned east line 200.24 feet; thence South  $89^{\circ} 31'$  east 174.34 feet; thence North  $0^{\circ} 31'$  east 35.02 feet to the true point of beginning; thence continue North  $0^{\circ} 31'$  east 230.00 feet; thence North  $89^{\circ} 31'$  west 24.76 feet; thence South  $0^{\circ} 31'$  west 230.00 feet; thence South  $89^{\circ} 29'$  east 24.76 feet to the true point of beginning.

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LEVIN METALS CORPORATION, et al.,  
Plaintiffs,

vs.

No. C 84 6273 SC

PARR-RICHMOND TERMINAL COMPANY, a  
dissolved corporation, et al.,  
Defendants,

AND RELATED COUNTERCLAIMS

PARR-RICHMOND TERMINAL COMPANY, a  
dissolved corporation, et al.,  
Plaintiffs,

vs.

No. C 84 6324 SC

RICHARD LEVIN, LEVIN METALS, et al.  
Defendants.

VOLUME I

DEPOSITION OF FRED PARR COX

Wednesday, February 6, 1985

By NICHOLAS ARACIC, Attorney at Law

Reported By:  
JILL C. HERRERO  
CSR #4901

1 A. No.

2 Q. Did you ever discuss with your brother, at any  
3 time after he told you he was interested in selling the  
4 property, what kind of disclosures to any prospective  
5 buyers should be made?

6 A. I said to him that we should advertise the  
7 property in the Wall Street Journal, and he prepared a  
8 brochure, which, when we had a response, I would circularize  
9 that to whoever responded.

10 Q. A brochure?

11 A. It was -- well, it was a statement showing a  
12 couple of -- a couple of pages showing the details of the  
13 property.

14 Q. Do you have any of those, now?

15 A. No.

16 Q. I don't know that you answered my question.

17 Did you ever discuss with your brother whether or not you  
18 should disclose to any prospective buyer any of the  
19 conditions which existed on the property?

20 MR. KELLER: I am going to object. That is not  
21 the question you asked him before.

22 MR. ARACIC: Well, then, I will ask him that  
23 question.

24 MR. KELLER: That's fine. I think you prefaced  
25 it saying that you didn't think he answered the question.

26 THE WITNESS: I didn't hear you?



1 (Whereupon, the following question was  
2 read back:

3 "QUESTION. Okay. If, in 1980, you knew that the  
4 Parr Terminal -- that the State had investigated  
5 the Terminal for pollution or contamination,  
6 would you have felt that was something which  
7 had to be disclosed to any prospective purchaser?")

8 MR. KELLER: I am also going to object. It is  
9 vague and ambiguous just in the use of investigated without  
10 a description of what the results of the investigation were.

11 MR. ARACIC: That's another question as far as  
12 I am concerned.

13 MR. KELLER: Counsel, I'm just making an  
14 objection.

15 MR. ARACIC: Okay. I'm sorry.

16 Q. Go ahead.

17 A. Well, if you had some claim or some lien on the  
18 property, you should certainly disclose it.

19 Q. I don't understand how that's an answer. What  
20 do you mean, "claim" or "lien"?

21 A. Well, if somebody came and found -- some agency  
22 found some problem, you have to reveal that to the purchaser.

23 Q. All right. In 1980, if you had been informed  
24 that a state agency had taken samples of the soil at the  
25 Parr-Richmond Terminal, and had revealed -- and those  
26 samples had revealed that there was a measurable layer or

1 amount of DDT contamination in the soil, would you have  
2 believed that that was a problem which had to be disclosed  
3 to any prospective purchaser?

4 A. Well, it depends on the degree. If it was a  
5 significant problem, you'd have to reveal it. If it was  
6 not a significant problem -- there's lots of tests have  
7 been done on the property. It depends on what the results  
8 are.

9 Q. If you had been informed in 1980, that the State  
10 had met with Rosemary McCormick of the Parr-Richmond  
11 Terminal Company and told her that DDT contamination  
12 existed on the property, would you believe at that time  
13 that that was a fact which should be revealed to any  
14 prospective purchasers?

15 MR. BALLARD: Objection --

16 MR. KELLER: Same objection. It is vague and  
17 ambiguous. Calls for speculation. Lacks foundation.

18 MR. BALLARD: Lacks foundation.

19 THE WITNESS: What do I do?

20 MR. KELLER: Unless I tell you not to answer,  
21 go ahead.

22 THE WITNESS: Do I answer?

23 MR. ARACIC: Q. Yes. He has not told you not  
24 to answer a single one of my questions, yes.

25 A. If there was a problem, it should be revealed.  
26 If there was not a problem -- if there is contamination,

1 it depends on the degree.

2 Q. Okay. I don't know that you answered my  
3 question. Let me ask it again, and perhaps --

4 A. Put it more directly.

5 Q. I'm doing my best.

6 A. Okay.

7 Q. If you had been informed that Rosemary McCormick --  
8 strike that.

9 If, in 1980, you had been informed that Rosemary  
10 McCormick, a secretary of the Parr-Richmond Terminal  
11 Company, had attended a meeting with the State, in which  
12 the State officials told her that they had tested samples  
13 and turned up DDT contamination, would you have felt that  
14 was a fact that should be revealed to any prospective  
15 purchasers of the Terminal?

16 MR. KELLER: Same objection.

17 THE WITNESS: Yes. If the test proved to be  
18 something significant.

19 MR. ARACIC: Q. Did anyone tell you that the  
20 State had tested the property before it was sold?

21 A. No.

22 Q. If you had been informed of the existence of  
23 the State test, would the results of those tests have been  
24 one of the things you would like to see before the property  
25 was sold to any prospective purchasers?

26 MR. KELLER: Same objection.

1 THE WITNESS: If there was a significant problem,  
2 I think I would be bound as a broker to reveal that problem.

3 MR. ARACIC: Q. And how would you know whether  
4 the problem was significant if you didn't know what was  
5 in the test results?

6 A. Well, certainly, engineering capability can  
7 respond to that question. I don't know what degree of  
8 contamination is significant or insignificant.

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1 determined, would you consider that a fact which ought to be  
2 revealed to a prospective purchaser?

3 MR. KELLER: Objection --

4 THE WITNESS: Sure.

5 MR. KELLER: -- vague and ambiguous. Calls for  
6 speculation and lacks foundation.

7 THE WITNESS: Pardon me?

8 MR. KELLER: Go ahead. You can answer.

9 MR. ARACIC: Q. She might have missed that.  
10 Would you please give us your answer.

11 A. If there was any problem, it should be revealed to  
12 a buyer.

13 Q. So, the answer to that question is, "Yes"?

14 A. I said yes once before.

15 Q. One of the reasons that last question was "yes,"  
16 is that if you don't know how much of a problem you have, it  
17 could be either very large or very small, right?

18 A. That would be my conclusion.

19 Q. Now, at any time before the property was sold to  
20 Levin Metals, were you told about the possibility of a  
21 cleanup on the property?

22 A. That has never been discussed with me because I  
23 didn't know the problem existed.

24 Q. Well, has anyone discussed it with you since the  
25 sale?

26 A. Yes.

1 MR. KELLER: What he wants to know, however,  
2 if you -- read this exact exhibit and see if this exact  
3 document was accepted.

4 THE WITNESS: I have never read this agreement  
5 all the way through.

6 MR. ARACIC: Q. Either now or before?

7 A. No, I mean, I haven't read it.

8 Q. Can you look at it and see if you have ever  
9 read it before?

10 A. I may have seen it if Peter Rothschild gave  
11 it to me. I think it was directed to the Terminal Company,  
12 though.

13 Q. Did Peter Rothschild ask you at any time  
14 was there anything he should know about this property?

15 A. No. I offered to take him over and take  
16 his people over and show them the property, and he said  
17 they knew about it and had been exposed to it in their  
18 operation over there.

19 Q. Did you tell him that a full value offer  
20 for \$8 million was going to be rejected because it was  
21 too long a language?

22 A. No, I wouldn't -- I told him to -- I told  
23 him to work out whatever documentation would be done  
24 at the counsel for the Terminal Company. I was merely  
25 interested in getting a buyer, not in the documentation.

26 Q. Did Peter Rothschild ever ask you to tell

1 him about any problems that existed with the property?

2 A. I don't believe so. He may have, but I think  
3 there was no problem, as far as either Peter Rothschild  
4 or I knew about the property.

5 Q. Did you discuss with Peter Rothschild the  
6 condition of the docks at the property?

7 A. I may have.

8 Q. Do you have any recall about that one way  
9 or the other?

10 A. No, I don't have any recall, particularly,  
11 about it. I told him that there were some repairs being  
12 done, and so forth, that had been done, and the pier  
13 had been extended, and I was not really familiar with  
14 the degree of maintenance that went on there.

15 Q. In which meeting of the two, that you have  
16 told us about, did the conversation that you have just  
17 described take place?

18 A. Gee, I can't recall whether it was the first  
19 meeting or second or whether we were just talking on  
20 the street or what it was.

21 Q. Were there other meetings than the two in  
22 your office? Did you actually meet in the street?

23 A. Oh, I pass him once in awhile, and say, "Hello,"  
24 and call him once in awhile about a particular piece of  
25 property or he calls me.

26 Q. But, do you have any recall that at any of

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LEVIN METALS CORPORATION, )  
et al., )  
Plaintiffs, )  
vs. )  
PARR-RICHMOND TERMINAL )  
COMPANY, a dissolved )  
corporation, et al., )  
Defendants. )

No. C 84 6273 SC

AND RELATED COUNTERCLAIMS )  
PARR-RICHMOND TERMINAL )  
COMPANY, a dissolved )  
corporation, et al., )  
Plaintiffs, )  
vs. )  
RICHARD LEVIN, LEVIN )  
METALS, et al., )  
Defendants. )

No. C 84 6324 SC

DEPOSITION OF JOHN PARR COX

Tuesday, January 22, 1985

By NICHOLAS ARACIC, Attorney at Law

VOLUME I

Reported by:  
JILL C. HERRERO  
C.S.R. #4901

**RECEIVED**  
**FEB 15 1985**

Moore, Clifford, Wolfe, Larson & Trutner



1 A. Yes.

2 Q. Do you know if Mr. Rothschild ever went out  
3 to the Terminal, itself?

4 A. Yes.

5 Q. How do you know?

6 A. I attended one meeting at the Terminal with  
7 Rothschild, Mr. Levin and Mr. Ratcliff of the attorney's  
8 office.

9 Q. That was after the sale?

10 A. No.

11 Q. Which Levin?

12 A. It was Dick Levin is the one I know.

13 Q. Okay. When was this meeting, sir?

14 A. I couldn't tell you, but it was before the  
15 sale was taken.

16 Q. Was it before there was an agreement to sell?

17 A. Mm-hmm.

18 Q. Yes?

19 A. I think so.

20 Q. What was the occasion that brought all of  
21 you out there?

22 A. Mr. Levin wanted to have all the equipment  
23 identified, and he wanted to make sure of the boundaries  
24 of the property, so we strolled around the complete  
25 perimeter of the Bulk Dock, did not go into the Parr  
26 Canal, as I recall, and chatted about inconsequential

1 matters because he knew all about the equipment anyway,  
2 so we just looked and went home.

3 Q Now, is this before they made an offer to  
4 your recollection, or is this after?

5 A I'm pretty sure before. I'm a little vague,  
6 but I'm pretty sure it was before.

7 Q Did you keep a diary entry of this?

8 A No.

9 Q Who else was there?

10 A I told you that I was there, Mr. Dick Levin  
11 was there, Mr. Ratcliff was there, and somebody else  
12 from Levin's operation. I can't tell you who it was.

13 Q Was it someone of authority, or was it his  
14 driver?

15 A I couldn't tell you.

16 Q You don't know?

17 A I don't know.

18 Q You recall four people?

19 A I recall four people.

20 Q Did you go anywhere after this stroll?

21 A No. Went home.

22 Q Did you ever take Mr. Levin to the Bohemian  
23 Club?

24 A Not that I recall.

25 Q Did you --

26 A I would have liked to.

1 Q Did you ever stroll around the property  
2 with Mr. Levin after the agreement was reached to purchase  
3 the property?

4 A No. Not that I recall.

5 Q Is that the only time in the entire time  
6 that you have known Mr. Levin that you actually strolled  
7 around the Bulk Dock with him?

8 A Correct.

9 Q Did you stroll through the vicinity of what  
10 used to be Building 223 and 225?

11 A Right over.

12 Q And could you see the foundation under the  
13 floor?

14 A It was covered with dirt.

15 Q How far down? "

16 A An inch or two. Maybe some places exposed.

17 Q In this meeting with Mr. Levin and these  
18 other people, were there any discussions about what  
19 activities had ever gone on at 223 and 225?

20 A None.

21 Q Did you ever tell Richard Levin at any time  
22 that there had been chemical plant operations on the  
23 property he was purchasing?

24 A Never.

25 Q Did you ever tell Mr. Levin at any time  
26 that there had been pesticide operations on the plant

1 he was purchasing?

2 A. No.

3 Q. Did you ever tell Mr. Levin at any time  
4 that there were -- there was a possibility of contamination  
5 existing on the property that was being purchased?

6 A. No.

7 Q. Did you ever tell Mr. Levin at any time  
8 that the State had made investigation of the property  
9 that was about to be purchased?

10 A. No.

11 Q. Did you ever tell Mr. Levin at any time that  
12 the State had suggested the possibility of a clean-up  
13 on this property that was about to be purchased?

14 A. I did not know that they had.

15 Q. So, you didn't tell him that, either?

16 A. No.

17 Q. Did you ever tell Mr. Levin at any time  
18 that the State had produced some test results of samples  
19 they had taken on this property that was about to be  
20 purchased?

21 A. No.

22 Q. Did you ever make any statement like that to  
23 anyone else who was associated with Mr. Levin?

24 A. No.

25 Q. Did you ever ask anyone of your employees  
26 to make such disclosures to Mr. Levin or anyone associated



1 with him?

2 A. No, I didn't even think about it.

3 Q. Okay. Now, I am going to show you an article  
4 your attorneys produced at the deposition of Mr. Benak.  
5 It's been marked in this series as Exhibit 11.

6 A. Yeah.

7 MR. ALBRECHT: Your last new exhibit was  
8 Number 20?

9 MR. ARACIC: Exhibit 20. It was excerpts  
10 from Mr. Cox' diary from 1979.

11 THE WITNESS: Yes.

12 MR. ALBRECHT: This is marked Benak Number 3,  
13 and it's your Number 11; isn't that right?

14 MR. ARACIC: That's right.

15 Q. Have you ever seen this article before  
16 today?

17 A. No.

18 Q. I am going to refer you to the second page  
19 of the article, and the last column. You see the  
20 reference to "United Heckatron"? I realize it's spelled  
21 wrong.

22 A. Yes, I see that.

23 Q. Is the Terminal at 401 Wright Street?

24 A. Our address is 401 Wright Avenue.

25 Q. Isn't the address 402 Wright Avenue?

26 A. No, it's 401. I may be wrong.

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LEVIN METALS CORPORATION, )  
et al., )  
Plaintiffs, )  
vs. )  
PARR-RICHMOND TERMINAL )  
COMPANY, a dissolved )  
corporation, et al., )  
Defendants. )

No. C 84 6273 SC

AND RELATED COUNTERCLAIMS )  
PARR-RICHMOND TERMINAL )  
COMPANY, a dissolved )  
corporation, et al., )  
Plaintiffs, )  
vs. )  
RICHARD LEVIN, LEVIN METALS, )  
et al., )  
Defendants. )

No. C 84 6324 SC

DEPOSITION OF JOHN PARR COX

VOLUME II

January 23, 1985

Reported by:  
JILL C. HERRERO  
C.S.R. #4901

**RECEIVED**  
**FEB 15 1985**

Moore, Clifford, Wolfe, Larson & Trutner

1 that was?

2 A. No.

3 Q. Okay. Let's talk about the meeting at  
4 Sutter Street, the one you described as very brief with  
5 Mr. Rothschild.

6 First, let me ask you this: Were the two  
7 other meetings, the first two meetings, were they just  
8 you and Mr. Rothschild present?

9 A. There might have been one man at the first  
10 meeting. His name escapes me, and he's -- it's a rather  
11 dim recollection. I can't say that there was.

12 Q. What was his role as you recall?

13 A. Oh, he was Rothschild's boss, I thought.  
14 I haven't got his card. I forgot his name.

15 Q. Do you remember anything about this man  
16 other than he was associated with Mr. Rothschild?

17 A. No. Just hello, goodbye.

18 Q. Okay. What about the second meeting? Anyone  
19 else there?

20 A. Not that I recall.

21 Q. And the third meeting?

22 A. The third meeting was very brief, and just  
23 Mr. Peter Rothschild, as I recall. He wanted to know if  
24 I had any more maps or literature or anything else, and  
25 I said, "No."

26 Q. Did you talk about anything else?



1           A.       No.

2           Q.       Had you been offered any money up to the  
3 time of this third meeting, that is, had there been an  
4 offer made?

5           A.       Not to me.

6           Q.       Do you know if an offer had been made to  
7 anyone else?

8           A.       Not to my knowledge.

9           Q.       Up to the time of this third meeting with  
10 Mr. Rothschild, had anybody made you an offer on this  
11 property?

12          A.       Wait a minute. Up to the time of Rothschild's  
13 meeting me?

14          Q.       Yes. The third time, this very brief meeting.

15          A.       Oh, no, no.

16          Q.       Tell me everything you remember he said at  
17 this third meeting.

18          A.       He asked me if I had any more maps or photo-  
19 graphs that would be helpful. I told him I had given  
20 him everything that we had and that was about it.

21          Q.       That was the whole conversation?

22          A.       Yes.

23          Q.       Were there other conversations, perhaps,  
24 on the telephone?

25          A.       I don't think so.

26          Q.       How did you go about setting up these meetings

NH

UNITED STATES DISTRICT COURT  
IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA

---o0o---

LEVIN METALS CORPORATION, LEVIN-RICHMOND  
TERMINAL COROPORATION,

Plaintiffs,

vs.

No. C-84-6273SC and  
C-84-6324PV

PARR-RICHMOND TERMINAL COMPANY a  
dissolved coroporation, and PARR  
INDUSTRIAL CORPORATION, a dissolved  
corporation, JOHN PARR COX, FRED  
COX, and DOES ONE to THREE HUNDRED,  
inclusive,

Defendants.

---

Deposition of

RICHARD LEVIN

Thursday, November 15, 1984

Reported by: Joan Martin, CSR #6036

RECEIVED

NOV 28 1984



1 your knowledge?

2 A. Oh, off the top of my head -- let's see. I  
3 imagine it's been about -- over ten, but I can't give you  
4 the exact date as a matter of record, but I --

5 Q. About ten years ago?

6 A. I would say it's been ten years, yes.

7 Q. Could you describe for me very briefly, Mr.  
8 Levin, just what the operation in Richmond was in those  
9 early days at the very beginning?

10 Was it simply that you were shipping your  
11 processed materials to PRT terminal for shipment  
12 elsewhere?

13 A. Yes.

14 Q. And then how would that be done? Would you ship  
15 them there, or would purchasers pick them up from your  
16 plant? How would that --

17 A. Material was shipped, primarily, by railroad  
18 car. I think practically everything that went into Parr  
19 Terminal was railroad shipments. They would be shipped  
20 from the various divisions to the terminal for this  
21 stockpiling.

22 Q. Shipped by you?

23 A. Yes. By the corporation.

24 Q. Well, did you have some kind of agreement, then,  
25 with Parr-Richmond Terminal for this?

26 A. Their normal tariffs that they published.

27 Q. I see. So you did have shipping agreements with  
28 Parr-Richmond Terminal in those days?



1           A. I don't know if they were shipping agreements.  
2 We operated under their tariffs that they operated under.

3           Q. I see. And then others would purchase the  
4 property, that is, these recycled metals from you, and  
5 would be shipped by you --

6           A. These would be shipped in full carloads. That  
7 is what we call bulk shipment. In the days of Parr, it  
8 was ten or eleven thousand tons. They were  
9 liberty-shipped.

10           Today it's all shipped in larger cargos. That  
11 primarily time was ten or eleven thousand tons shipment.  
12 When 10,000 tons, or whatever it was, was accumulated and  
13 we had a sale, we would sell to an overseas mill. And  
14 Parr would do -- we would operate under Parr's loading,  
15 stevedoring contracts, or tariffs.

16           Q. Would your personnel go to the Parr-Richmond  
17 Terminal in connection with these shipping operations?

18           A. No.

19           Q. Never?

20           A. Well, I may have had somebody there for the  
21 bookkeeping, but we had nothing to do with the operation.  
22 It was just a matter of records.

23           Q. But what function, if any, would any of your  
24 personnel, that is, Levin Metals Corporation personnel or  
25 their predecessors, play on-site at the terminal?

26           A. Only on board ship where they might tell Parr  
27 Terminal which hatches to load and what to put in those  
28 hatches.

1 Q. I see. Were your personnel in charge of  
2 determining which hatches the material would be loaded?

3 A. Loading is normally direct -- the responsibility  
4 of the shipper. That is, as far as disposition of cargo,  
5 grade.

6 You see, there is not one grade of material.  
7 There is various grades of scrap. That's all.  
8 Everything else would be up to the terminal. They had  
9 responsibility for everything.

10 Q. Well, your personnel would go on-site for some  
11 function in connection with this operation?

12 A. Possibly someone would come on board a ship,  
13 talk with the captain or whoever was first mate or  
14 whoever was loading, and they would go over a hatch plan.  
15 You always shipped on a hatch plan.

16 Parr Terminal has a copy of the hatch plan so  
17 they know what they are doing, and there is stevedoring  
18 and loading accordingly.

19 Q. What person or persons did that for you at that  
20 time, if you can recall?

21 A. It's been so long -- it normally would be a  
22 function of operations. And I just don't recall who was  
23 on board or who had charge of it.

24 Q. Do you know who the bookkeeper was?

25 A. At that time our controller was Lon Epps.  
26 E-p-p-s.

27 Q. Is he still with you?

28 A. No. He's retired.

1 Q. What would his function in those days be, to go  
2 and check --

3 A. He has a --

4 MR. ARACIC: Let him finish the question.

5 MR. ALBRECHT: Q. What would his function be?

6 A. As a controller, he'd have charge of the  
7 recordkeeping and he would check the invoices that would  
8 be sent out by Parr Terminal against shipments. Just a  
9 verification of operation records.

10 Q. Do you mean by that, correct me if I'm wrong, a  
11 verification to make sure that your materials which were  
12 shipped by you were getting on the ship?

13 A. Verification that invoices by Parr Terminal,  
14 compared with material shipped. It's a question of  
15 tonnages. Everything was on a tariff, per ton.

16 Q. All right. So you'd have a bookkeeper there.

17 Can you think of anyone else who would go  
18 there?

19 MR. ARACIC: Is your question, does that mean was  
20 Mr. Epps there?

21 MR. ALBRECHT: Yes.

22 THE WITNESS: I would say he would occasionally go  
23 there. That wasn't his -- I don't know if he'd go on  
24 board ship. But he's the only one that might have gone  
25 into Parr Terminal offices and talked with their  
26 bookkeeper. It could have been somebody else. But I  
27 don't recall.

28 MR. ALBRECHT: Q. Mr. Epps and possibly others?



1 Q. Before this lawsuit started.

2 A. No.

3 Q. To your knowledge it could have been, but you  
4 don't know?

5 A. I know of no -- I have no knowledge of that.

6 Q. You allege in your complaint that Parr-Richmond  
7 Terminal acquired the property which you later bought in  
8 1981.

9 Do you have any information on which that is  
10 based? Is that based on your own knowledge?

11 A. Based on some research done by our staff and  
12 attorneys.

13 Q. But you don't know that that was in fact the  
14 case, of any knowledge of your own?

15 A. No.

16 Q. Do you know what the Parr-Richmond Terminal  
17 property which you purchased was used for prior to your  
18 purchasing it?

19 A. Yes. It was used as a public terminal under  
20 public tariffs for handling of bulk cargos and heavy-hook  
21 loading, and normal terminal operation.

22 Q. Is that all?

23 A. That's all I know of that it was used for.

24 Q. You have no knowledge of that property being  
25 used for any other purpose than terminal operations?

26 A. No.

27 Q. Did Mr. Rothschild, to your knowledge, Mr. Peter  
28 Rothschild, make any inspection of the property for you?

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF CONTRA COSTA

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LEVIN METALS CORPORATION,  
LEVIN-RICHMOND TERMINAL  
CORPORATION,

PLAINTIFFS,

VS.

PARR-RICHMOND TERMINAL CO.,  
ET AL.,

DEFENDANTS.

COPY

NO. 255 836

**CERTIFIED QUESTIONS INCLUDED**

DEPOSITION OF RICHARD LEVIN

VOLUME II

TAKEN BEFORE WENDE SHURTLEFF, NOTARY PUBLIC

IN AND FOR THE COUNTY OF ALAMEDA

STATE OF CALIFORNIA

C.S.R. LICENSE NO. 43 87

JUNE 24, 1986

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Moore, Clifford, Wolfe, Larson & Trotter

1 A. I SEE I NOTICE THAT IT SAYS HERE I MET WITH HIM AND  
2 WE HAD A MEETING, BUT IT WAS BY TELEPHONE.

3 Q. SO WHAT YOU'RE SAYING IS YOU WERE NOT PHYSICALLY  
4 PRESENT IN THE SAME BUILDING OR SAME OFFICE WITH MR. MARCUS?

5 A. WHEN THIS WAS, NOT WHEN THIS WAS DISCUSSED.

6 Q. OKAY. GREAT. NOW, DID YOU RECALL READING A BROCHURE  
7 THAT HAD BEEN OBTAINED DESCRIBING THE PARR-RICHMOND TERMINAL?

8 A. YES.

9 Q. CAN YOU TELL ME WAS THAT A BROCHURE ESPECIALLY  
10 PREPARED TO MARKET OR SELL THE PROPERTY OR WAS THAT ONE MERELY  
11 DESCRIBING THE KIND OF SERVICES THAT WERE OFFERED AT THE  
12 TERMINAL?

13 A. I REALLY DON'T KNOW. TO ME IT LOOKED LIKE IT WAS --  
14 WELL, IT COULD BE BOTH. IT WAS A SALES BROCHURE AND IT ALSO --  
15 I GUESS YOU COULD CONSTRUE IT AS MARKETING, BUT I CONSTRUED IT  
16 MORE POSSIBLY A SALES BROCHURE. IT LISTED ALL OF THE EQUIPMENT  
17 AND EVERYTHING ELSE.

18 Q. IT DID HAVE THE LIST OF EQUIPMENT ATTACHED?

19 A. YES.

20 Q. DID YOU GO OVER THAT LIST OF EQUIPMENT YOURSELF?

21 A. YES, I WENT OVER THE BROCHURE. WHEN I FIRST READ THE  
22 BROCHURE, IT WAS -- YOU KNOW, I JUST GLANCED AT IT AND THEN WHEN  
23 I DECIDED TO BUY THE PROPERTY, I WENT OVER IT THOROUGHLY.

24 Q. PRIOR TO THE TIME THAT YOU READ THAT BROCHURE, WHEN  
25 WAS THE LAST TIME YOU WERE ON THE PROPERTY AT THE PARR-RICHMOND  
26 TERMINAL?

27 A. I GUESS IS WHEN WE WERE DOING BUSINESS WITH THE  
28 TERMINAL IN THE MID SIXTIES. I DON'T KNOW. '65, '66, SOMEWHERE

1 IN THAT PERIOD.

2 Q. SO YOU'RE SAYING IT WAS ROUGHLY 14 OR 15 YEARS SINCE  
3 YOU HAD BEEN ON THE PROPERTY?

4 A. YES, I BELIEVE SO. I'M JUST TRYING TO RECALL IF ANY  
5 OTHER TIME -- I HAD DRIVEN BY IT, YOU KNOW, MANY TIMES ON THE  
6 WAY TO CANAL BOULEVARD, BUT I DON'T -- I DON'T BELIEVE I HAD  
7 GONE THERE ANYTIME. I KNOW I WOULD HAVE REMEMBERED GOING  
8 THROUGH THE GUARD GATE. THEY HAVE A CHAIN THERE. I DON'T -- I  
9 DON'T -- TO THE BEST OF MY RECOLLECTION, I'D SAY NO. TALLY

10 Q. NOW, WAS IT A CONDITION IN YOUR MIND WHEN YOU FIRST  
11 MADE THE OFFER OR WERE TALKING ABOUT MAKING AN OFFER THAT THE  
12 TRANSACTION WITH U.S. GYPSUM TO ACQUIRE YOUR SACRAMENTO PROPERTY  
13 BE CONSUMMATED?

14 MR. ARACIC: I DON'T UNDERSTAND. LET'S HAVE IT  
15 BACK. MAYBE I'LL UNDERSTAND IT WHEN I HEAR.

16 MR. MENDELSON: IT WAS BADLY PHRASED. LET ME  
17 TRY AND REPHRASE IT.

18 Q. IN YOUR OWN MIND, WAS IT A PRECONDITION TO THE  
19 ACQUISITION OF THE PARR TERMINAL THAT YOU DISPOSE OF OR SELL THE  
20 SACRAMENTO PROPERTY TO U.S. GYPSUM?

21 A. YES.

22 Q. IF I UNDERSTAND THE SITUATION CORRECTLY, YOU HAD  
23 PREVIOUSLY GIVEN U.S. GYPSUM AN OPTION TO ACQUIRE THAT  
24 SACRAMENTO PROPERTY?

25 A. THAT'S RIGHT. THEY HAD AGREED ON THE PRICE AND IT  
26 WAS A QUESTION OF THEY WANTED AN OPTION FOR SOME PERIOD, I DON'T  
27 REMEMBER JUST HOW LONG IT WAS, BUT IT WASN'T TOO LONG A PERIOD,  
28 90 DAYS OR 120 DAYS, I DON'T KNOW. AND THE REASON FOR IT WAS



1 A. "A".

2 Q. IT WAS AT "A"?

3 A. I BELIEVE IT WAS BERTH "A". I'M ALMOST SURE IT WAS.

4 Q. DID YOU GO ON THE PROPERTY AT ANY TIME BEFORE THE  
5 ESCROW CLOSED YOURSELF TO MAKE AN INVESTIGATION OF THAT?

6 A. NO.

7 MR. ARACIC: THERE'S TWO QUESTIONS I GUESS. DID  
8 HE GO ON AND FOR THAT PURPOSE OR DO YOU MEAN --

9 MR. MENDELSON: DID HE GO ON THE PROPERTY AT ANY  
10 TIME PRIOR TO THE CLOSE OF ESCROW.

11 MR. ARACIC: OKAY.

12 THE WITNESS: NO.

13 MR. ARACIC: I THINK HIS EARLIER TESTIMONY WAS  
14 THAT HE WAS THERE WITH MR. COX.

15 THE WITNESS: OH, OKAY. I BEG YOUR PARDON.  
16 YOU'RE TALKING ABOUT FROM THE TIME THE OFFER WAS ACCEPTED BY  
17 MR. COX TO THE TIME IT WAS CLOSED?

18 MR. MENDELSON: Q. PRIOR TO THE CLOSE OF  
19 ESCROW.

20 A. YES, I WENT -- I BELIEVE IT HADN'T CLOSED YET WHEN I  
21 WAS THERE WITH MR. COX.

22 Q. OKAY. AND WHO WAS WITH YOU WHEN YOU WENT THERE WITH  
23 MR. COX?

24 A. THERE WAS MR. COX, MR. BENAK, MYSELF, I THINK THAT'S  
25 ALL THAT WAS AT THE TERMINAL.

26 Q. WAS MR. RATCLIFF WITH YOU, THE LAWYER, MR. COX'S  
27 LAWYER?

28 A. I DON'T BELIEVE SO. MAY HAVE BEEN. THERE WAS

1 SOMEBODY THAT MR. COX HAD MET THERE. HE WASN'T ON THE TOUR WITH  
2 ME, BUT -- AND HE WAS NOT THERE AT THE TIME I WAS TALKING TO  
3 FRED, BUT HE SEEMED TO HAVE JOINED IN SOMEWAY OR ANOTHER.

4 Q. OKAY.

5 MR. ADLER: RALPH, PARDON ME. I'M A LITTLE BIT  
6 CONFUSED AS TO WHICH MR. COX.

7 THE WITNESS: JOHN. I'M TALKING ABOUT JOHN COX.

8 MR. ARACIC: JOHN.

9 MR. MENDELSON: Q. NOW, IN TERMS OF YOUR AT ANY  
10 CONVERSATIONS WITH JOHN COX WITH REGARDS TO THIS WHOLE  
11 TRANSACTION, I'M TRYING TO -- I WANT TO TRY AND NARROW THINGS  
12 DOWN. DID YOU DURING THE PERIOD OF TIME JANUARY 21 THROUGH  
13 FEBRUARY 2ND WHEN ALL THESE OFFERS WERE BEING MADE, HAVE ANY  
14 CONVERSATIONS WITH JOHN COX?

15 A. NO.

16 Q. OKAY. DID MR. ROTHCHILD REPORT TO YOU DURING THAT  
17 SAME PERIOD OF TIME, JANUARY 21 THROUGH FEBRUARY 2ND, THAT HE  
18 HAD HAD ANY CONVERSATIONS WITH JOHN COX?

19 A. NO, HE HAD TOLD ME AT THE TIME HE HAD CONVERSATIONS  
20 WITH FRED COX.

21 Q. OKAY. DID MR. MARCUS EVER REPORT TO YOU DURING THE  
22 PERIOD JANUARY 21 THROUGH FEBRUARY 2ND THAT HE HAD HAD ANY  
23 CONVERSATIONS WITH JOHN COX REGARDING THE ACQUISITION OF THIS  
24 PROPERTY?

25 A. NOT THAT I KNOW OF.

26 Q. IS IT YOUR BEST RECOLLECTION THEN MR. MARCUS IF HE  
27 SPOKE WITH ANYONE SPOKE WITH FRED COX?

28 A. YES.

1 A. I DON'T BELIEVE I ASKED HIM ABOUT THE EQUIPMENT. I  
2 SAW THE EQUIPMENT. IT'S THE SAME EQUIPMENT I USED MANY YEARS  
3 BEFORE, BUT I DON'T THINK I DISCUSSED THE EQUIPMENT WITH  
4 MR. COX.

5 Q. OKAY. DID MR. COX MAKE ANY STATEMENTS TO YOU AT ALL  
6 ABOUT THE IMPROVEMENTS THAT WERE SITUATED OR LOCATED ON THE  
7 PROPERTY DURING HIS VISIT?

8 A. WELL, I DON'T UNDERSTAND BY -- WHAT IMPROVEMENTS?

9 Q. WELL, BUILDINGS, WAREHOUSES, DOCKS, ANYTHING OF THAT  
10 SORT?

11 A. WELL, HE SHOWED ME THE BIG WAREHOUSE THAT HAD THE  
12 STEEL -- THAT THEY USED FOR STEEL COILS, SHOWED ME THE SHOP  
13 WHICH I WAS ALREADY FAMILIAR WITH THE SHOP, BUT I DON'T THINK I  
14 WAS FAMILIAR WITH THAT BIG STEEL WAREHOUSE. THAT WASN'T THERE  
15 WHEN I WAS USING THE PROPERTY. AND HE TOOK ME THROUGH THE  
16 OFFICE, SHOWED ME ALL THE FILES THAT HE'D BEEN REMOVING AND ONE  
17 THING OR ANOTHER. AND THERE WAS A QUESTION OF A SAFE THERE, WAS  
18 A BIG SAFE THERE, A LITTLE MC CORMICK, LOOKED ANTIQUE,  
19 MC CORMICK STEAM SHIP SAFE. IT'S AN ANTIQUE SAFE. IT'S A BIG  
20 ONE IN THERE, AND HE SAID, "IT'S A HEAVY SAFE. IT'S GOING TO BE  
21 A JOB TO MOVE IT," AND I SAID, "WELL, WHY DON'T YOU LEAVE IT OR  
22 I'LL BUY IT FROM YOU." SO I ASKED HIM HOW MUCH HE WANTED FOR  
23 IT, AND HE SAID \$500, SO I BOUGHT IT FROM HIM, AND -- OTHER THAN  
24 THAT, THAT WAS THE ONLY THING THAT WASN'T IN THE ORIGINAL  
25 EIGHT-MILLION-DOLLAR CONTRACT WAS THAT SAFE.

26 Q. WAS THIS A SIDE DEAL BETWEEN YOU AND JOHN?

27 A. I GUESS. I DON'T KNOW. I THOUGHT "WELL, IT'S GOING  
28 TO COST HIM \$500 TO MOVE, BUT IF HE WANTED \$500 FOR IT I'D LIKE

1 TO HAVE IT." IT WAS AN OLD KIND OF ANTIQUE BIG SAFE. IT'S  
2 STILL THERE IN THE SAME SPOT IT'S PROBABLY BEEN FOR 30 OR 40  
3 YEARS. I DON'T KNOW.

4 Q. DID YOU HAVE ANY OTHER CONVERSATIONS WITH MR. COX  
5 ABOUT THE PROPERTY OR THE CONDITION OF THE PROPERTY?

6 A. NO.

7 Q. OKAY. AS YOU LOOK BACK ON THAT VISIT THAT YOU HAD  
8 WITH HIM, IS THERE ANYTHING, AS YOU LOOK AT IT NOW, THAT YOU  
9 BELIEVE WAS A MISREPRESENTATION THAT WAS MADE BY MR. COX TO YOU  
10 REGARDING THE PROPERTY OR ANY OF THE EQUIPMENT ON THE PROPERTY?

11 MR. ARACIC: I'LL OBJECT TO THE FORM OF THE  
12 QUESTION TO THE EXTENT THAT IT'S UNCLEAR WHETHER YOU MEAN AN  
13 AFFIRMATIVE MISREPRESENTATION OR MISREPRESENTAION BY FAILURE TO  
14 DISCLOSE.

15 MR. MENDELSON: Q. YOU CAN ANSWER THE QUESTION,  
16 MR. LEVIN.

17 A. PARDON?

18 Q. YOU CAN ANSWER THE QUESTION.

19 A. OKAY. YES, I THINK -- I BELIEVE MR. COX, JOHN COX,  
20 WALKED WITH ME DOWN WHAT IS NOW TERMED THE HECKATHORN SITE, WAS  
21 ALL -- ONLY THING I SAW WAS A LOT OF PILINGS ON THE FAR END  
22 TOWARDS CUTTING BOULEVARD, AND HE SHOWED ME SOME RAIL THAT WAS  
23 WAY DOWN NEAR THE END CLOSE TO CUTTING, AND HE SAID, "THAT RAIL,  
24 OF COURSE, IS PART OF THE PROPERTY," AND SHOWED ME A FEW CLAM  
25 BUCKETS THAT WERE OUT THERE, AND HE SAID, "THAT'S ALL YOUR  
26 INVENTORY OR EQUIPMENT," AND WE WALKED AROUND AND HE SAID  
27 NOTHING ABOUT THE HECKATHORN SITE OR THERE WAS ANY CONTAMINATION  
28 OR WHETHER -- AND THAT'S -- AND TO THAT EXTENT, I WOULD ANSWER



1 YOUR QUESTION AND SAY YES, I THOUGHT THERE WAS SOME  
2 MISREPRESENTATION.

3 Q. SO WHAT YOU'RE SAYING IS THAT HE DIDN'T MAKE A  
4 STATEMENT BUT WHAT YOU'RE SAYING HE DIDN'T TELL YOU THAT THERE  
5 HAD BEEN D.D.T. OR PESTICIDES PROCESSED ON THE PROPERTY  
6 PREVIOUSLY?

7 A. THAT'S CORRECT.

8 Q. OKAY. SO IT WAS NOT A DIRECT STATEMENT, IT WAS THE  
9 FACT THAT SOMETHING HE CONCEALED OR DIDN'T TELL YOU ABOUT? YOU

10 A. HE DIDN'T TELL ME ABOUT IT, THAT'S CORRECT.

11 Q. DURING THE COURSE OF YOUR WALK THROUGH THE PROPERTY  
12 DOWN NEAR THE OLD HECKATHORN SITE, DID YOU HEAR HIM REFER TO  
13 THAT AREA AS WHERE THE OLD D.D.T. BUILDINGS WERE?

14 A. NO.

15 Q. HE DIDN'T USE WORDS TO THAT EFFECT?

16 A. I DON'T BELIEVE SO. I DON'T THINK IT WAS DISCUSSED  
17 AT ALL. IN FACT, I NEVER HEARD OF HECKATHORN BEFORE IT CAME UP  
18 AFTER.

19 Q. WELL, I'M NOT USING THE WORD HECKATHORN. I'M ASKING  
20 IF HE MADE SOME REFERENCE TO THAT AREA AS BEING THE AREA WHERE  
21 THE OLD D.D.T. BUILDINGS WERE?

22 A. I DON'T BELIEVE HE DID.

23 Q. OKAY. YOU HAD BEEN ON THAT PROPERTY IN THE SIXTIES.  
24 YOU STATED?

25 A. YEAH, I THINK MID SIXTIES, YEAH.

26 Q. OKAY. DO YOU RECALL THAT THERE WAS A FACILITY ON THE  
27 PROPERTY AT THAT TIME WHERE THEY WERE PROCESSING OR  
28 MANUFACTURING PESTICIDES?

1 A. NO, I NEVER SAW ANY FACILITY.

2 Q. OKAY. DO YOU RECALL WHEN YOU WERE ON THE PROPERTY IN  
3 THE SIXTIES EVER BEING DOWN IN THE VICINITY OF THAT HECKATHORN  
4 SITE?

5 A. NO, MY BUSINESS WAS ON THE BERTH "A" AND "B" WHERE WE  
6 HAD MATERIAL STOCKPILED OR WHERE PARR STOCKPILED OUR MATERIAL.

7 Q. SO YOU NEVER HAD OCCASION TO GET DOWN IN THE AREA  
8 WHERE THE HECKATHORN SITE --

9 A. NO, I DIDN'T EVEN KNOW WHERE THE PROPERTY LINES WERE  
10 AT THAT TIME WHETHER THAT THE PROPERTY THAT MR. PARR -- THAT  
11 MR. COX SHOWED ME AFTER THE PURCHASE, AT THE TIME I MADE THE  
12 OFFER, I DIDN'T KNOW THAT THAT PROPERTY WAS ALL THE WAY UP TO  
13 CUTTING. I MORE OR LESS ASSUMED IT STOPPED WHERE THE  
14 STOCKPILING AREA WAS, THE SCRAP.

15 Q. OKAY. PRIOR TO THE TIME THAT YOU MADE YOUR LAST  
16 OFFER WHICH WAS ON FEBRUARY 2ND, 1981, MR. COX HAD NOT MADE ANY  
17 REPRESENTATION OR HAD NOT CONCEALED ANYTHING FROM YOU, HAD HE?

18 A. I HADN'T DISCUSSED --

19 MR. ARACIC: I OBJECT TO THE FORM OF THE  
20 QUESTION. FIRST OF ALL, IT'S COMPOUND. SECONDLY, IT MISSTATES  
21 THE EVIDENCE. THE OFFER WAS MADE BY MR. MARCUS. AND THIRD,  
22 IT'S ARGUMENTATIVE IN THAT IF HE'S NEVER TOLD HIM ABOUT THE  
23 PESTICIDE OPERATIONS, THEN HE'S CONCEALED IT FROM HIM FOREVER,  
24 SO ....

25 MR. MENDELSON: Q. GO AHEAD AND ANSWER THE  
26 QUESTION, MR. LEVIN.

27 MR. ARACIC: DON'T ANSWER THE QUESTION IN THAT  
28 FORM. PLEASE BREAK IT DOWN.

UNITED STATES DISTRICT COURT  
IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA

---oOo---

LEVIN METALS CORPORATION, LEVIN-  
RICHMOND TERMINAL CORPORATION,

Plaintiffs,

vs.

No. C-84-6273SC and  
C-84-6324SC

PARR-RICHMOND TERMINAL COMPANY, a  
dissolved corporation, and PARR  
INDUSTRIAL CORPORATION, a dissolved  
corporation, JOHN PARR COX, FRED COX,  
and DOES ONE to THREE HUNDRED,  
inclusive,

Defendants.

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Deposition of

PETER A. ROTHSCCHILD

Friday, March 7, 1985

Reported by: Joan Martin, CSR #6036

RECEIVED

MAR 18 1985

Moore, Clifford, Wolfe, Larson & Trutner



1 Q. What was that price?

2 A. Eight million dollars net, to him.

3 Q. Now, did you ask him any questions about the  
4 property?

5 A. Yes.

6 Q. What type of questions did you ask?

7 A. Well, if we could go out and -- we could go see  
8 it.

9 Q. You ask him if you could go see the property?

10 A. Yes.

11 Q. What did he say?

12 A. "Yes." See, I don't quite recall where the  
13 meeting was, whether -- if the meeting was at the  
14 property there, or if it was at his office. Because he  
15 had an office, I believe, on Sutter Street.

16 Q. 655 Sutter, I believe.

17 But you do recall that this occurred at that  
18 first meeting?

19 A. Yes. We discussed going on the property. I  
20 don't remember if we did it right there at that meeting,  
21 if it was out there, or we did it subsequently.

22 Q. Now, this is the first time you had ever seen  
23 the brochure you were provided?

24 A. I believe so, unless Mr. Marcus had a brochure  
25 of it before.

26 Q. At any rate, it was your understanding from your  
27 talk with Mr. Cox that the property was seriously for  
28 sale?



1 A. That's right.

2 Q. Now, what did you do with this information after  
3 the meeting? Did you contact any potential buyers?

4 A. Well, went out to see the property. Whether we  
5 did it there or immediately thereafter, maybe --  
6 "immediately" I mean immediately I wanted to see what  
7 this property was all about.

8 Q. Now, when you say you went to see the property,  
9 what physically did you --

10 A. Walk. You know, walk the property.

11 Q. I see.

12 A. And I don't know whether Mr. Cox took us out on  
13 the property. He mentioned there was a man there named  
14 Doming --

15 Q. Frank Domingo?

16 A. Yes. Anyway, we took a look at the different  
17 facilities there.

18 Q. And was that the first time you had ever been on  
19 the property?

20 A. Yes.

21 Q. Do you recall who accompanied you on this  
22 physical walk of the site?

23 A. It may have been Mr. Marcus, I'm not positive.

24 MR. ARACIC: Mr. Victor Marcus?

25 MR. BALLARD: Okay.

26 MR. KELLER: In your testimony, you should make it  
27 clear whether it's Victor or Gerald, to avoid --

28 MR. BALLARD: All right.

1 Q. So you think Mr. Victor Marcus.

2 Mr. John Parr Cox, did you say?

3 A. I'm not sure whether he was with us or not.

4 Q. Was there anyone else besides the two of you  
5 that you definitely recall?

6 A. It could have been Mr. Domingo.

7 Q. Anyone else?

8 A. No. And then if it wasn't Mr. Domingo, it might  
9 have been some -- an employee there. I just -- I don't  
10 really recall. --

11 Q. All right. After this --

12 A. Because somebody had to show us around. I just  
13 wasn't out there blind.

14 Q. Then did you inspect the bulk dock?

15 A. What do you mean "inspect"? We walked the --

16 Q. I'm speaking of you walking the dock.

17 A. I'm not an engineer, so --

18 Q. You inspect something. "Inspect" is a legalism  
19 I'm trying to avoid.

20 Now, after that walk, did you attempt to offer  
21 the property for sale to any person?

22 A. After the walk?

23 Q. After you were --

24 MR. BUNIM: At any time after the walk or  
25 immediately after the walk? I --

26 MR. BALLARD: Q. Any time after the walk did you  
27 offer the property for sale?

28 A. Yes.

1 A. No.

2 Q. How long had it been since you had left Victor  
3 Marcus & Company?

4 A. It must be over a year. A year plus. Year  
5 minus. Right around a year.

6 Q. All right. Now, what was your next job after  
7 you left Victor Marcus?

8 A. I went into business for myself.

9 Q. What was the name of your business?

10 A. Rothschild & Associates.

11 Q. And did you have any associates when you first  
12 started up?

13 A. No.

14 Q. Had you acquired any associates by January of  
15 1981?

16 A. No.

17 Q. Now, did you ever contact any representative of  
18 Levin Metals Corporation concerning an offer for the Parr  
19 Terminal while you were working for Victor Marcus?

20 A. Concerning an offer, or presenting the property?

21 Q. Presenting the property.

22 A. Yes.

23 Q. Do you recall when you did this, when you made  
24 this presentation? Or the first presentation, if there  
25 were more than one?

26 A. What do you mean by "presentation"?

27 Q. Well, I was using your word. You say you  
28 presented the property to a representative of Levin at

1 some time, is that correct?

2 A. Yes.

3 Q. All right. I wanted to know the first time that  
4 you did that.

5 A. Right away after learning about the availability  
6 of the property from John Cox.

7 Q. Would that have been before the meeting on  
8 August 15 described in Exhibit 2?

9 A. I don't know.

10 Q. All right. Do you recall whether it was in 1979  
11 or 1980?

12 A. '79.

13 Q. All right.

14 A. It was right when I found out about the  
15 property.

16 Q. And you initiated this contact? Rather, you  
17 weren't contacted by someone from Levin Metals?

18 A. No.

19 Q. Who did you contact?

20 A. Mr. Levin.

21 Q. And do you recall, was this a telephone contact  
22 or was it in person?

23 A. I don't recall.

24 Q. Do you recall what you told Mr. Levin?

25 A. Yes.

26 Q. What did you tell him?

27 A. That the Parr-Richmond Terminal property was  
28 available for sale.



1 the property.

2 Q. And what did he say?

3 A. He said there were just month-to-month. And I  
4 think there was one or two.

5 Q. All right. Now, aside from leases, can you  
6 recall any other topics you discussed?

7 A. Discussed? Trying to think -- request we break  
8 a minute.

9 MR. BALLARD: Sure. Take your time.

10 (Brief recess.)

11 MR. BALLARD: Back on the record.

12 Q. You were telling me what Mr. Cox and you  
13 discussed at your first meeting.

14 You asked if there were leases on the property?

15 MR. ARACIC: This is Fred Cox now, right?

16 MR. BALLARD: Fred Cox.

17 MR. ARACIC: Thank you.

18 MR. BALLARD: Q. And he said there were one or two?

19 A. Month-to-month. So there really weren't leases  
20 on the property.

21 Q. All right. Now, is there anything else you  
22 recall discussing?

23 A. "Has there been -- was there much activity on  
24 the property?"

25 Q. And what did he say in response to that?

26 A. He said, "There is a hot prospect. Somebody has  
27 been contacting us that is very interested."

28 Q. By "activity," you don't mean shipping activity,

1       you mean bought for potential purchasers?

2           A. Yes. That's right.

3           Q. All right. Did he say who was interested in  
4       purchasing the property?

5           A. No.

6           Q. Do you recall his exact words? Did he say there  
7       was a --

8           A. Some party that is very interested. I think he  
9       gave me some more brochures, too. I believe I asked if  
10      he had any more.

11          Q. Did you ask to inspect the property at this  
12      first meeting?

13          A. No. I don't believe so. I had, you know, I had  
14      already been out to the property.

15          Q. All right. You had been out to the property  
16      since 1979?

17          A. Yes. But I had driven by the property to --  
18      prior to meeting with Cox, with Fred Cox.

19          Q. Now, when you drove by, you drove by the  
20      property itself, not just by on Hoffman Boulevard?

21          A. You can drive in on Fourth and Wright and go in  
22      around there. They call it windshielding.

23          Q. I understand. And when did you drive by?

24          A. (No response.)

25          Q. Again, relative to this meeting with Fred Cox.

26          A. Sometime after -- when Levin told me to find out  
27      about the availability of the property.

28          Q. Now, when you drove by, did you get out of your

1 car at any time and take a closer look at anything?

2 A. I don't recall.

3 Q. Did Mr. Fred Cox invite you to inspect the  
4 property?

5 A. What do you mean, invite me to inspect --

6 Q. Did he ask you if you wanted to inspect the  
7 property?

8 A. I don't recall.

9 Q. Do you recall discussing with Mr. Cox prior  
10 tenants who had occupied the property?

11 A. No.

12 Q. Did you ever discuss this topic with Mr. Cox at  
13 this or any other meeting?

14 A. No.

15 Q. Do you recall Mr. Cox saying that a company  
16 called Heckathorn & Company had been a tenant at the  
17 Richmond Terminal site?

18 A. Absolutely not.

19 Q. This is at the first meeting I'm asking.

20 Do you recall him saying that any company had  
21 processed chemicals at the site?

22 A. Absolutely not.

23 Q. Was there anything else said at the meeting or  
24 discussed at the meeting that you haven't told me, this  
25 first meeting?

26 A. May have mentioned to him about how Beaver  
27 Insurance was doing. And asked him about how his duck  
28 season was.

1 A. Yes.

2 Q. Turning to the second sentence at Paragraph 1,  
3 is the Thursday meeting the meeting at which you  
4 presented the second written offer to Mr. Fred Cox?

5 A. Yes.

6 Q. All right. And you had no other contacts with  
7 Mr. Fred Cox between the time that he returned that offer  
8 to you at that meeting and the time that you  
9 hand-delivered this February 2 letter to him?

10 A. No, that's not --

11 Q. What contacts did you have with him between  
12 those two meetings?

13 A. I called him Friday -- I think it was Friday. I  
14 told him that Mr. Levin or a representative of his would  
15 like to take a look at the property that weekend, and if --  
16 how we could go about making arrangements for that.

17 I don't know whether he said, "Use my name" or,  
18 "his name" or what, but he said that that was -- that was  
19 the way of doing it.

20 Q. When did Mr. Levin -- did Mr. Levin tell you  
21 that he wanted to look at the property?

22 A. I'm not sure whether he told me, or Mr. Marcus  
23 told me. I believe it was Mr. Levin that told me. It  
24 was after I explained to him about my meeting with Fred  
25 and what was said.

26 Q. Did he say why he wanted to look at the  
27 property?

28 A. Just wanted to -- I don't believe so. He wanted



1 to, himself, or somebody inspect it.

2 Q. I'm sorry, I didn't hear that answer.

3 A. He either wanted to do it, or have someone -- a  
4 representative of his inspect it. Because of -- well,  
5 speculation on my part. So I'd have to say that he  
6 didn't exactly say why.

7 Q. Did you ask him why yourself?

8 A. No. Again, you know, this is kind of fuzzy. I  
9 can't exactly -- you know, what the total conversation  
10 was.

11 Q. I can appreciate that. I just want your best  
12 recollection.

13 A. Yes.

14 Q. And did you -- when did you speak with Mr.  
15 Marcus concerning damage to the dock and piling that is  
16 referred to in Paragraph 2 of the February 2, 1981,  
17 letter?

18 A. That Monday morning after I had talked with Mr.  
19 Levin.

20 Q. Was this a telephone conversation with Mr.  
21 Marcus?

22 A. No. It was in his office.

23 Q. How did the subject of damage to docks and  
24 pilings arise in your conversation?

25 A. Mr. Levin had learned from somebody, I don't  
26 know who, that a ship had damaged -- had run into the  
27 dock and had damaged one of the pylons, or piers, I don't  
28 know the terminology, and he was concerned in making his

1 explaining my conversation that I had with Mr. Cox.

2 Q. Okay.

3 A. About deleting certain things in the offer, what  
4 Mr. Cox had told me.

5 Q. Can you tell me what Mr. Cox told you should be  
6 deleted?

7 My recollection of your testimony is just that  
8 he said he wanted it to be shorter.

9 A. No. You just asked me that, and then you went  
10 on to another subject. You didn't let me -- well --

11 Q. Well, I'll ask you now, then.

12 MR. BUNIM: Let him ask you the question.

13 THE WITNESS: Okay.

14 Mr. Cox, in his discussion, said he wanted a  
15 one-page offer. Said, "My brother wants it 'as is, where  
16 is.' He wants to know that it's a firm deal, no  
17 warranties, just -- he wants to know that when he signs  
18 this thing, he sold the property. He wants it very  
19 simple, he doesn't like to read these long things."

20 And I said to Mr. Cox, "You know, there is a --  
21 you're doing all this, you're doing away with the  
22 warranty clause that is on there. And, tell me, is there  
23 anything wrong with this property? Is there anything  
24 that the buyer should know about?"

25 And he said, "No, except the dock is old."

26 MR. BALLARD: Q. All right. So at the meeting on  
27 January 29th you specifically recall pointing to -- or  
28 calling to Mr. Cox's attention that his brother was

1 repair of the dock. And that's what I told him.

2 MR. BALLARD: Q. All right. Did Mr. Marcus present  
3 you with this third offer, Exhibit 7 at this second  
4 meeting?

5 A. Exhibit 7? Are you talking about the second --  
6 okay. February 2nd.

7 Q. February 2nd is the third offer.

8 A. Yes. Yes. It's hard -- this is all  
9 upside-down, you know, so it's --

10 I assume this is the offer. I think I have a  
11 copy of a signed one. This isn't signed. I haven't read  
12 this totally to know that this is the offer.

13 MR. ARACIC: This looks like one I had copied up.  
14 And I didn't have a copy of a signed one at the time.  
15 You have the signed one, I think.

16 MR. BALLARD: Q. We'll present the witness with --  
17 and, I take it, you had prepared this cover letter?

18 A. That's right.

19 Q. Okay. And then you hand-delivered the offer  
20 with your cover letter to Mr. Fred Cox?

21 A. Yes. Before I hand-delivered it, I called Mr.  
22 Fred Cox to tell him that we were going to drop off an  
23 offer based on what we had talked about at the meeting on  
24 the 29th --

25 Q. And --

26 A. Let me finish.

27 Q. I'm sorry.

28 A. And I told him that there -- Levin had

1 discovered some damage on the dock and that he wasn't --  
2 he would assume he's not going to pay for it.

3 He said, "Don't worry, I'll check on it, but  
4 I'm sure there is no problem, that we'll get the  
5 insurance proceeds."

6 And then I said to him, "Is there anything  
7 else," because he said he wasn't aware that the dock had  
8 been damaged. And I asked him if there was anything else  
9 that he knew about that we should know.

10 Q. So this is the second time that you asked him  
11 whether there was anything you should know?

12 A. That's right.

13 Q. And what was his response to your question?

14 A. "No, not that I'm aware of."

15 Q. Did you have any further conversation with Mr.  
16 Fred Cox at this meeting?

17 A. What meeting?

18 Q. Where you presented the offer to him?

19 A. Okay. Now, we are talking about presenting --  
20 I'm confused. This is --

21 MR. ARACIC: He was talking but a phone call. And  
22 now he's going to the meeting.

23 MR. BALLARD: Okay.

24 THE WITNESS: I made a telephone call to arrange --

25 MR. BUNIM: There is no question pending.

26 MR. BALLARD: Q. So after you made this telephone  
27 call, you delivered the offer?

28 A. That's right.

UNITED STATES DISTRICT COURT  
IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA

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LEVIN METALS CORPORATION, et al.,

Plaintiffs,

vs.

PARR-RICHMOND TERMINAL COMPANY, a  
dissolved corporation, et al.,

Defendants.

No. C 84 6273 SC  
C 84 6324 SC

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And Related Counterclaim

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PARR-RICHMOND TERMINAL COMPANY, a  
dissolved corporation, et al.,

Plaintiffs,

vs.

RICHARD LEVIN, LEVIN METALS, et al.,

Defendants.

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Deposition of

PETER A. ROTHSCHILD

Volume II, Pages 137-258

Reported by: Joan Martin, CSR #6036

RECEIVED

MAY 30 1985

Moore, Clifford, Wolfe, Larson & Trutner





1 your counsel have had a chance to review the documents.

2 Mr. Rothschild, on Exhibit 8, the letter from  
3 Mr. Share, there is reference to a tentative agreement to  
4 meet at the facility.

5 Q. Did you, at any time, the week after this  
6 February 20 date, yourself, meet at the Richmond  
7 Terminal?

8 A. With whom?

9 Q. With anyone.

10 A. I may have. I may have.

11 Q. There is a reference to a meeting between Mr.  
12 Cox and Mr. Levin. Do you know if you attended such a  
13 meeting?

14 A. I don't believe so.

15 Q. All right. Did you ever, after February 20,  
16 1981, visit the Richmond Terminal again?

17 A. Yes.

18 Q. Okay. Prior to the closing of the sale  
19 transaction, let's say, May 1, 1981?

20 A. Yes.

21 Q. For what purpose did you visit the terminal?

22 A. I believe I may have taken some appraisers out  
23 there, somebody from a bank. They were looking at  
24 getting a loan on the property. I may have taken them  
25 out.

26 Q. Did you ever undertake to inspect the property  
27 for any defects that you could see in the property?

28 MR. BUNIM: Defects that could be seen visibly?

1 MR. BALLARD: Q. Do you recall that you ever went  
2 to the City offices and physically checked documents to  
3 determine what the zoning of the property was?

4 MR. BUNIM: He's already stated that he doesn't  
5 recall precisely what he's done. He just testified to  
6 that.

7 MR. BALLARD: I'm entitled to probe his memory  
8 somewhat.

9 THE WITNESS: I don't recall.

10 MR. BALLARD: Q. Do you recall whether you ever  
11 investigated to determine whether there were any use  
12 restrictions on the property other than zoning  
13 regulations?

14 A. I don't recall. This was four years ago.

15 MR. ARACIC: No question pending.

16 MR. BALLARD: Q. I understand that memories fade.  
17 I just ask that you give me your best recollection.

18 Now, I'm next going to show you a letter dated  
19 March 2, 1981, which I'll mark as Exhibit 10.

20 (Defendants' Exhibit 10 marked for  
21 identification.)

22 MR. BALLARD: Q. Let me know when you've had an  
23 opportunity to review the letter.

24 A. Okay.

25 Q. Now, there is reference in the letter to an  
26 inspection of the property.

27 Did you ever inspect the property, the Richmond  
28 Terminal property, shortly after March 2, 1981?

1 A. Yes.

2 Q. All right. Did you inspect the property at a  
3 meeting --

4 A. When you say "inspect," what do you mean? I  
5 mean, I was on the property. I don't --

6 Q. Well, there is reference in the letter to  
7 inspection of the property, so I was using the language  
8 in the letter --

9 MR. ARACIC: Mr. Greene's language.

10 MR. BALLARD: Yes, Mr. Greene's language.

11 Q. Were you on the property with Mr. Share and Mr.  
12 Krumland shortly after March 2, 1981?

13 A. I remember -- I'm trying to -- I may have been  
14 there with Mr. Krumland. I don't recall if Mr. Share was  
15 there or not.

16 Q. What was the purpose for your visit to the  
17 property?

18 A. I think they were looking at the equipment.  
19 They were doing an inventory of equipment, personal  
20 property.

21 Q. Did you talk with Mr. Krumland about any damage  
22 to the dock, the bulk dock?

23 A. I don't recall.

24 Q. Do you remember asking or discussing whether  
25 there were any other problems or defects on the property  
26 at this meeting?

27 A. With Mr. Krumland?

28 Q. Yes.

1 for the first time.

2 Q. Is that the meeting or event that you had in  
3 mind when you said "the meeting with Mr. Cox"?

4 A. It was that meeting or right after that meeting.  
5 I don't recall whether I met with Mr. Cox at his office --  
6 he had two offices, I believe, one on Sutter Street and  
7 one out at the project -- out at the property. Whether I  
8 met him there -- but I know directly after that meeting I  
9 went out to see, to physically look at the property for  
10 the first time.

11 Q. What was your purpose of looking at the property  
12 on that particular occasion?

13 A. See what it was about. I mean --

14 Q. All right. Would you describe for me what you  
15 did on that occasion, where did you go and what did you  
16 look at?

17 A. I don't recall exactly, just walked around the  
18 property, looked at the buildings.

19 Q. Did you go inside any of the buildings?

20 A. Yes.

21 Q. Do you recall which buildings you went inside?

22 A. All -- I mean, basically went through -- went  
23 over the whole property so that I was familiar with it.

24 Q. At that time or any other time did you ever  
25 inquire into prior uses that had been made of the  
26 property?

27 A. I was always under the understanding that it was  
28 used as port property.

1 Q. How did you acquire that understanding?

2 A. I believe from Mr. Cox.

3 Q. John Cox?

4 A. He said it was a -- it was always a port  
5 terminal, in the family, used in the port property.

6 Q. The Cox you were referring to in the last answer  
7 was Mr. John Cox, am I correct on that?

8 A. Yes.

9 Q. Other than Mr. Cox telling you it was a port  
10 property that had always been in the family, did you make  
11 any further inquiry into or have further discussions with  
12 anybody concerning the subject matter of what prior uses  
13 had been made of the property?

14 A. Well, there was a photograph on the wall I asked  
15 him about.

16 Q. All right. First of all, what was the  
17 photograph, what did it depict?

18 A. Millions -- I don't know if you've ever seen it,  
19 lots and lots of people, it was during -- when they were  
20 building liberty ships in that area. Looked like a  
21 General Motors plant letting out. There were thousands  
22 of people all over the place.

23 I asked him what was this, and apparently the  
24 liberty ships were built there, or right next door.  
25 Something was going on, but I don't recall exactly.

26 Q. Other than that discussion and the prior one you  
27 described, do you recall any additional inquiry or  
28 conversations you had concerning the subject matter of



1 Q. And what information did you receive from Mr.  
2 Fred Cox on that subject?

3 A. I believe I answered it in the deposition.

4 Q. Well, if you have, I'm sorry. Why don't you  
5 answer it again?

6 A. He told me that there were only month-to-month  
7 tenancies on it.

8 Q. Did you inquire into who possessed those  
9 month-to-month tenancies?

10 A. I believe so.

11 Q. And what information did you receive?

12 A. Who they were.

13 Q. And who were they?

14 A. I don't recall.

15 Q. Do you recall having any discussion as to what  
16 those particular tenants were doing in respect to their  
17 utilization of the property?

18 A. I think one was -- it was all port-oriented, I  
19 believe. Storing of coke.

20 Q. I beg your pardon?

21 A. Petroleum coke.

22 MR. ARACIC: The stuff that's black.

23 THE WITNESS: There may have only been one. I don't  
24 recall.

25 MR. BRAINERD: Q. Did you ever inquiry into any  
26 prior leases that may have been on the property?

27 A. No.

28 Q. And the brochure you identified that you gave to